



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1854

Date Filmed 2/1/85 Camera No. --- 7

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MUR 1854

FEDERAL ELECTION COMMISSION

- Routing Slip duplicate page
- Comment Sheets
- Assignment Sheets
- Address form
- 12 day Report

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| <input type="checkbox"/> (1) Classified Information | <input type="checkbox"/> (6) Personal privacy |
| <input type="checkbox"/> (2) Internal rules and practices | <input type="checkbox"/> (7) Investigatory files |
| <input type="checkbox"/> (3) Exempted by other statute | <input type="checkbox"/> (8) Banking Information |
| <input type="checkbox"/> (4) Trade secrets and commercial or financial information | <input type="checkbox"/> (9) Well Information (geographic or geophysical) |
| <input checked="" type="checkbox"/> (5) Internal Documents | |

Signed Charles E. Smith
date 1/29/85

85040512222

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
First Fidelity Bank of New) MUR 1853
Jersey) MUR 1854
Robert Ferguson, Chairman and CEO)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 24, 1985, the Commission decided by a vote of 5-0 to take the following actions in MURs 1853 and 1854:

1. Merge MUR 1853 into MUR 1854.
2. Find no reason to believe First Fidelity Bank of New Jersey and Robert Ferguson, violated the Federal Election Campaign Act with regard to the allegations in the complaint.
3. Approve and send the letters attached to the General Counsel's Report signed January 18, 1985.
4. Close the file.

Commissioners Aikens, Elliott, Harris, McGarry and Reiche voted affirmatively in this matter; Commissioner McDonald did not cast a vote.

Attest:

1-25-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary: 1-22-85, 11:22
Circulated on 48 hour tally basis: 1-22-85, 4:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 29, 1985

Robert R. Ferguson
Chairman and Chief Executive Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, New Jersey 07192

Re: MUR 1854
First Fidelity Bank NA of
New Jersey
Robert R. Ferguson, Chairman
and Chief Executive Officer

Dear Mr. Ferguson:

On November 29, 1984, the Commission notified the First Fidelity Bank of New Jersey and you, as chairman and CEO of the complaints in MUR 1853 and MUR 1854 alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On January 24, 1985, the Commission voted to merge MUR 1853 with MUR 1854. Also on that date, the Commission determined that on the basis of the information in the complaints, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

A handwritten signature in dark ink, appearing to read "Kenneth A. Gross", is written over the typed name.

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 29, 1985

Gerald Rose
Independent Democrats for
LaRouche
P.O. Box 859 - Radio City Station
New York, New York 10101

Re: MUR 1854...

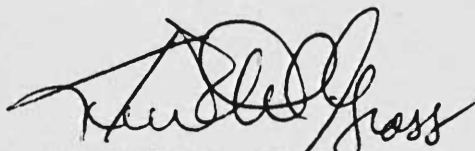
Dear Mr. Rose:

85040512225
The Federal Election Commission has reviewed the allegations of your complaint dated November 16, 1984, and denominated MUR 1854. On January 24, 1985, the Commission voted to merge MUR 1853, a matter involving similar allegations, with MUR 1854. Also on that date, the Commission determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 29, 1985

Edward Spannaus
The LaRouche Campaign
P.O. Box 2150, GPO
New York, New York 10116

Re: MUR 1854

Dear Mr. Spannaus:

The Federal Election Commission has reviewed the allegations of your complaint dated November 16, 1984, and denominated MUR 1853. On January 24, 1985, the Commission voted to merge MUR 1853, a matter involving similar allegations, with MUR 1854. Also on that date, the Commission determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Cx*
DATE: January 22, 1985
SUBJECT: MUR 1853/1854 - General Counsel's Report

The attached is submitted as an Agenda document
for the Commission Meeting of _____
Open Session _____
Closed Session _____

CIRCULATIONS

48 Hour Tally Vote [X]
Sensitive [X]
Non-Sensitive []

24 Hour No Objection []
Sensitive []
Non-Sensitive []

Information []
Sensitive []
Non-Sensitive []

Other []

DISTRIBUTION

Compliance [X]

Audit Matters []

Litigation []

Closed MUR Letters []

Status Sheets []

Advisory Opinions []

Other (see distribution below) []

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SENSITIVE
BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

In the Matter of

First Fidelity Bank of New Jersey
and Robert Ferguson, Chairman & CEO

) 85 JAN 22 AM 11:22
) MUR 1853
) MUR 1854

GENERAL COUNSEL'S REPORT

BACKGROUND

Complainant (MUR 1854) Independent Democrats for LaRouche (hereinafter IDL) was the principal authorized campaign committee for Mr. Lyndon H. LaRouche's candidacy for President in the 1984 general election. Complainant (MUR 1853) The LaRouche Campaign (hereinafter TLC) was the principal authorized campaign committee for Mr. LaRouche's candidacy for the 1984 Democratic Presidential nomination. Since the two committees are thus related, and because both complaints raise identical allegations against identical Respondents, the two MURs will be considered together. This Office recommends, moreover, that MUR 1853 be merged into MUR 1854.

Both Committees maintained campaign depositories in the First Fidelity Bank of New Jersey (hereinafter the "Bank"). The complainants allege that the Bank and its Chairman and CEO (Robert Ferguson) violated the Federal Election Campaign Act (hereinafter the "Act") in that they did the following:

1. terminated both committees' respective checking accounts;
2. terminated without prior notice the committees' ability to accept and deposit contributions by credit card;

3. removed the funds already deposited in the respective accounts (\$170,000 in the IDL account, \$30,000 in the TLC account) and placed them in escrow as a reserve against anticipated chargebacks by credit card contributors; and

4. failed to provide IDL and TLC with account memoranda identifying individuals who charged back their credit card contributions to the committees.

IDL has further alleged that the Bank improperly refused to process \$112,650 in deposits to its account.

The complainants argue that the actions outlined involve violations of the Act on four grounds. The first two of these legal arguments, as outlined below, are raised by both complainants; the third and fourth are raised by IDL alone:

1. The Bank's refusal to release debt memoranda concerning contributor chargebacks impedes the campaign committees' efforts to report information concerning contributions in violation of 2 U.S.C. §§ 432(c) and 434(b) and 11 C.F.R. §§ 102.9(a) and 104.3(a);

2. The Bank's action deprived the committees of a depository, making it impossible to meet the demands of creditors;

3. The Bank's refusal to permit access to the funds on deposit forced IDL to cancel a planned election eve broadcast on CBS, with resultant risk of contractual liability to the network. IDL regards the Bank's action as equivalent to an independent expenditure by the Bank, in violation of 2 U.S.C. § 441b, against

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the LaRouche candidacy in the amount of \$236,484 (the cost of the broadcast).

4. The Bank put IDL in the position of having no depository. Every political committee is required under the Act to maintain such a depository. 2 U.S.C. § 432(h)(1). IDL concludes therefore that the Bank has violated that statute.

FACTUAL AND LEGAL ANALYSIS

A review of the statutes upon which complainants rely makes plain that these laws impose duties on political committees and their treasurers, and on no other party. Thus, the Act obliges such committees to maintain depositories, to keep records of contributions and expenditures, and to report specified information based on those records to the Federal Election Commission. In no instance does the Act oblige any bank or other institution to cooperate with any political committee in complying with these requirements.

For this reason, the allegations in the complaint, even if substantiated, could not be construed as violations of the Act by the Bank. No provision of the Act obliges a bank to release debt memoranda or to provide complainants with a campaign depository. Nor could the Bank's refusal to permit IDL access to the funds in its account be characterized as an "independent expenditure" even if this action indeed forced IDL to cancel its scheduled election-eve broadcast. The Act defines the term "independent expenditure" as an expenditure by a person expressly advocating the election or defeat of a clearly identified

candidate which is made without cooperation or consultation with any candidate...." 2 U.S.C. § 431(17). Complainants have not even alleged that Respondents expressly advocated anything.

The complainants may have an action at law against the Bank for breach of contract or on some other grounds. But the Commission is not a proper forum for such an action. */

There remains to consider one further possible violation of the Act. IDL asserts that it is without a depository. Were that assertion accurate, IDL (and possibly TLC as well), would be in violation of 2 U.S.C. § 432(h)(1). Subsequent to the filing of the present complaints, however, the Hon. Harry A. Margolis, Judge of the Superior Court of New Jersey, Chancery Division: Essex County, ordered the Bank to credit the accounts of TLC and IDL. Although Judge Margolis enjoined any withdrawals or drafts on these accounts without Court order, complainants would appear at least to have campaign depositories, even if they lack free access to the funds deposited therein. Consequently, there is no reason to believe any party has violated the Act in this case.

*/ A case is in fact now pending between these parties in U.S. District Court, District of New Jersey. That court has jurisdiction to hear and determine the merits of all claims in this controversy. None of those claims arise under federal election law.

RECOMMENDATIONS

1. Merge MUR 1853 into MUR 1854.
2. Find no reason to believe First Fidelity Bank of New Jersey and Robert Ferguson, violated the Federal Election Campaign Act with regard to the allegations in the complaint.
3. Approve and send the attached letters.
4. Close the file.

Charles N. Steele
General Counsel

January 18, 1985
Date

By:

Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

1. TLC complaint
2. IDL complaint
3. Response
4. Proposed letter to Edward Spannaus
5. Proposed letter to Gerald Rose
6. Proposed letter to First Fidelity Bank of New Jersey and Robert Ferguson.

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Mel Klenetsky
National Campaign Director
Edward Spannaus
Treasurer

Attachment 1



P.O. Box 2150, GPO, New York, N.Y. 10116, (212) 247-8820

November 16, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street NW
Washington, DC 20463

MUR
1853

14 NOV 19
P12: 00

Mr. Steele:

This constitutes formal complaints against Fidelity Bank, NA of New Jersey ("Fidelity") and officers of the bank as identified below for violations of the Federal Election Campaign Act. Fidelity has been the principal depository for The LaRouche Campaign ("the committee"). On November 2, 1984 the bank unilaterally terminated the committee's business checking account and its merchant agreement for the deposit of credit card contributions. At the same time \$30,000 of committee funds were sequestered to an escrow account for the ostensible purpose of establishing a reserve against contributor chargebacks.

Since the termination of its contracts with The LaRouche Campaign, the bank has refused to provide the committee with any documentation pertaining to activity on the account. Such documentation includes identification of individuals whose contributions have been charged back (debited to the account), and the amounts of such chargebacks. At the committee's last meeting with the bank on November 5, 1984, such debit memoranda were shown to the committee but then withheld by the bank, and have not been provided since.

Since the committee cannot report the relevant contributor transactions without these bank memoranda (transactions which would be itemized as negative items on Schedule A for Lines 17a and 19b, and as adjusted year-to-date aggregates on both these schedules), the committee's Reports of Receipts and Expenditures could be materially in error starting with the November 20, 1984 report. This represents a violation of 2 U.S.C. 432(c) and 434(b), and 11 C.F.R. 102.9(a) and 104.3(a), respecting both the maintenance of records and the reporting of those transactions. As well, the committee is also unable to maintain proper documentation for these transactions.

As a second cause of complaint, the bank's termination of the committee's account without notification and its sequestration of \$30,000 in committee deposits has severely undercut the committee's ability to retire campaign debt, both from the loss of funds, and from the damage done to the committee's fundraising capabilities for lack of a merchant

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agreement enabling the raising of contributions by credit card. As is well known to the FEC Audit Division, this mode of fundraising has represented a significant share of the committee's overall fundraising program.

Such debt consists primarily of obligations to individual lenders, several of whom have already lodged complaints with the Federal Election Commission in respect of alleged arrears on their loans; and of which complaints, several have already resulted in Matters Under Review having been initiated by the Commission directed to The LaRouche Campaign. The bank's actions have severely jeopardized the committee's ability to retire these campaign debts in a timely fashion; and through the disruptions caused by the complaints of the lenders whose debts thus cannot be paid, these bank actions also create further interference with normal committee functioning.

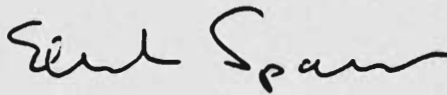
I therefore request that your office open an investigation into the actions of the bank, for violations of the statutes and regulations identified above. This complaint is to be understood as filed against both of the following entities or individuals:

First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

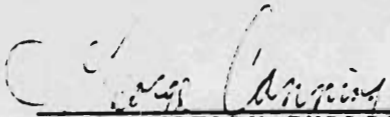
Robert R. Ferguson
Chairman and Chief Executive Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

I will expect notification of your opening a Matter Under Review to be mailed to both us and the respondents within five days of receipt of this complaint.

I swear that the facts described herein are true and complete to the best of my knowledge.


Edward Spannaus
Treasurer

Sworn to before me this
16th day of November, 1964.



NOTARY PUBLIC, STATE OF NEW YORK
GEORGE CANNING
NO 4738718
Qualified in New York County
Commission Expires 3/2/85

85040512234

**INDEPENDENT
DEMOCRATS
for
LaRouche**

P.O. Box 859, Radio City Station, New York, N.Y. 10101 (212) 247-8820

Attachment 2

Debra Hanania-Freeman, Chairman
Gerold P. P. Treasurer

59

November 16, 1984

Charles N. Steele, General Counsel
Federal Election Commission
1325 K Street, NW
Washington, DC 20463

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1854

Mr. Steele:

This is to inform you of violations of the Federal Election Campaign Act and Regulations which require your establishing a Matter Under Review investigation. This complaint addresses four specific areas of violation, as specified below, and is filed against the following two respondents:

First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

Robert R. Ferguson
Chairman and Chief Executive Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

First Fidelity Bank NA of New Jersey has been the sole depository for Independent Democrats for LaRouche since July 31, 1984. On November 2, 1984 the bank broke its contractual arrangements with the committee by terminating the committee's checking account and its ability to accept and deposit contributions by credit card, without proper notification. The bank also removed \$170,000 in committee funds on deposit, to set up a fund for the payment of presumed future chargebacks by contributors to the campaign. In addition to the \$170,000 so removed, the bank refused to process the committee's deposits of November 1, totalling \$112,650.00

The combined illegal removal of committee funds on deposit, and refusal to accept new deposits, forced the committee to violate its contract with the CBS Television network for a half-hour paid political broadcast to have been shown at 8:30 PM EST on November 5, 1984, the eve of the General Election in which Mr. LaRouche was a presidential candidate.

Since terminating the committee's accounts, the bank has also failed to provide the committee with routine debit memoranda identifying contributions being charged back to the committee by contributors, chargebacks which the committee

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knows to exist, and the payment of which was the purported reason for the sequestration of \$170,000 on November 1.

The bank's actions constituted and continue to constitute violations of the Federal Election Campaign Act as follows:

First Violation

In blocking committee access to its funds on deposit, the bank forced the cancellation of a contracted prime-time television broadcast by the campaign on election eve, an obviously critical time when all three major candidates were conducting such broadcasts. This cancellation represented a catastrophic disruption of and interference with the conduct of the campaign. It represents an illegal corporate contribution to a federal campaign in the form of an Independent Expenditure against a particular candidate in the amount of at least \$236,484.00, the cost of the cancelled CBS broadcast, and possibly more should damages or penalties have to be paid to CBS as a result of a possible breach of contract suit entered against the campaign. The committee had, moreover, notified the bank days in advance of its intended use of its funds, and the bank was therefore fully aware of the impact of its actions on a federal political campaign.

Second Violation

In holding up release of debit memoranda representing contributor chargebacks, the bank is preventing disclosure of the names, dates, and amounts of contributions to a federal campaign committee, in violation of 2 U.S.C. 432(c) and 434(b), and 11 C.F.R. 102.9(a) and 104.3(a). The committee cannot report transactions of which it can have no knowledge.

Third Violation

In terminating the committee's accounts without prior notice, the bank has placed the committee in the position of having no depository, a violation of 2 U.S.C. 432(h)(1) and 11 C.F.R. 103.2 and 103.3(a).

Fourth Violation

Without a depository, it has been impossible for the committee to raise funds during the time between the termination of its account at First Fidelity and its opening of a new account elsewhere. It has also been impossible to make disbursements against the \$170,000 removed by the bank from the committee's account. This has put the committee in a position of being unable to meet the demands of multiple creditors, subjecting it to possible legal collection actions.

This inability to raise funds for a critical period of time has also significantly damaged the committee's good relations with individual lenders who would otherwise have received payment on their loans, and would have remained supporters willing to provide future contributions based on the goodwill established by such past performance.

The ill-will so created, moreover, is not confined to the individual contributors affected. Complaints lodged by such individuals with banks, with the press and media, and with federal regulatory agencies such as the FEC, create a more generalized atmosphere of suspicion and hostility towards the campaign. That atmosphere, however unsubstantiated by fact, is in turn communicated to many other individuals and institutions by stories in the press and media, and by comments made to the public by employees of, among other institutions, the Public Records Office of the Federal Election Commission. There are many instances on record of each one of these consequences, some of which are or will shortly be the cause of further actions by the committee.

The damage to the campaign's fundraising capabilities thus constitutes a second illegal corporate contribution to a federal campaign, again in the form of actions directed against a particular candidate.

For these reasons, I therefore request that you establish an investigation pursuant to a Matter Under Review and notify complainant and respondents as prescribed by the Federal Election Campaign Act and Regulations.

I swear to the truth of these statements.

Gerald Rose

Gerald Rose
Treasurer

Sworn to before me this
16th day of November, 1984.

George Carling

NOTARY PUBLIC STATE OF NEW YORK
GEORGE CARLING
No. 4735728
Jamaica, New York County
Commission Expires 7/30/85

85040512237

LAW OFFICES OF
MORRISON & FOERSTER
A PARTNERSHIP INCLUDING FREDERICKA CORPORATION
1880 N STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE (202) 897-1800
TELEX 90-4888

SAN FRANCISCO OFFICE
ONE MARKET PLAZA
SPRUE STREET TOWER
SAN FRANCISCO, CALIFORNIA 94102
TELEPHONE (415) 777-6000

LOS ANGELES OFFICE
330 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
TELEPHONE (213) 686-3800

DENVER OFFICE
200 COLUMBIA PLAZA
1970 BROADWAY
DENVER, COLORADO 80202
TELEPHONE (303) 631-2000

LONDON OFFICE
18 GROSVENOR PLACE
LONDON SW1W 7EN
ENGLAND
TELEPHONE 236-0881

HONG KONG OFFICE
ALEXANDRA HOUSE
CHATER ROAD
HONG KONG
TELEPHONE 2-28887

January 3, 1985

BY HAND

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1853
MUR 1854

Dear Mr. Steele:

On November 19, 1984, Independent Democrats for LaRouche ("IDL") and The LaRouche Campaign ("the Campaign") (collectively "the complainants") filed the above-referenced complaints with the Commission against the First Fidelity Bank N.A., New Jersey ("the Bank") and Robert R. Ferguson, the Bank's chairman and chief executive officer. Pursuant to 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.6, the Bank and Mr. Ferguson hereby respond to each complaint in turn and request that the Commission take no action on either complaint.

I. Introduction

For the reasons stated in detail below, neither complaint states a valid claim under the federal election laws or the Commission's regulations. Even if the facts as stated by each complaint were entirely accurate, the complaints fail to identify any acts by the Bank that constitute violations of the Federal Election Campaign Act or the Commission's rules. Each complaint is accordingly deficient on its face and should be dismissed.

The undisputed facts are the following: Complainants' accounts with the Bank were terminated on November 1, 1984. The Bank placed \$200,000 from those accounts into escrow to provide for anticipated "chargebacks" -- claims by credit card holders that funds deposited into complainants' accounts had been improperly charged on their credit cards. The complainants cancelled a half-hour television broadcast

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Charles N. Steele
January 3, 1985
Page 2

scheduled for November 4, 1984, allegedly because of the unavailability of the funds placed in escrow by the Bank.

These facts depict a dispute between the complainants and the Bank over the Bank's decision to terminate complainants' accounts and to place certain funds in escrow. That dispute is currently being litigated in the United States District Court for the District of New Jersey,^{1/} a proper forum for the resolution of such a dispute. Complainants are improperly attempting to transform such a dispute into a violation of the federal election laws. Their position, if accepted, would create a potential violation in every business dispute between a political committee and a merchant. The complaints have no merit and should be dismissed.

II. Allegations Against Robert Ferguson

IDL and the Campaign name Mr. Ferguson as a respondent to their complaints. The complaints themselves, however, contain no allegations of specific actions by Mr. Ferguson. Accordingly, they are plainly deficient with respect to Mr. Ferguson and cannot form the basis for Commission action.

III. IDL Allegations Against the Bank

The IDL complaint sets out four alleged violations that the Bank will address in turn.

A. First Alleged Violation

IDL first alleges a violation by the Bank on the basis of "an illegal corporate contribution to a federal campaign in the form of an Independent Expenditure against a particular candidate." IDL Complaint at 2. This "illegal corporate contribution" purportedly arose from the inability of the LaRouche campaign committees to pay for a prime time television broadcast. IDL alleges that the cost of the cancelled broadcast, \$236,484.00 (plus any penalties to CBS), constitutes the supposed unlawful independent expenditure.

^{1/} First Fidelity Bank and Robert Ferguson v. LaRouche Campaign, et. al., Civil Action No. 84-4849A consolidated with IDL and the LaRouche Campaign v. First Fidelity Bank, No. 84-4685.

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Charles N. Steele
January 3, 1985
Page 3

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This allegation has no basis in law or in the Commission's regulations. It is noteworthy that the complaint does not cite any statutory provision or section of the rules presumably violated. Under the Federal Election Campaign Act ("the Act"), "independent expenditures" above a certain level are subject to reporting and disclosure requirements. 2 U.S.C. § 434(c). The acts complained of by IDL, however, do not even arguably fall under the definition of "Independent Expenditure" set out in 2 U.S.C. § 431(17). Under that provision, an Independent Expenditure "means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate." It has been held that the words "expressly advocating" mean "exactly what they say," "requiring an unambiguous statement" urging the election or defeat of a clearly identified candidate. See FEC v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45, 53 (2nd Cir. 1980). In this case, there is not even a statement, much less an "unambiguous" one. The Bank's decision to terminate IDL's account and withhold certain funds cannot be construed as "expressly advocating the election or defeat of a clearly identified candidate," and the complaint neither makes such an allegation nor states facts that would give rise to the inference of express advocacy.

Similarly, the complaint does not state facts to support its allegation of an "illegal corporate contribution" separate and apart from the independent expenditure allegation. The term "contribution" means the donation of anything of value "for the purpose of influencing any election for federal office."^{2/} While the complaint states

^{2/} The full definition of "contribution" in 2 U.S.C. § 431(8) reads as follows:

The term "contribution" includes --

(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

Charles N. Steele
January 3, 1985
Page 4

that the Bank was aware "of the impact of its action on a federal political campaign," it neither alleges nor states any facts which even give rise to the inference that the Bank's purpose was to influence an election. To the contrary, the complaint states that the Bank "removed \$170,000.00 in Committee funds on deposit, to set up a fund for the payment of presumed future chargebacks by contributors to the Campaign." IDL Complaint at 1. As the complaint thus recognizes, the Bank's purpose was to protect itself against future chargebacks, which in fact have materialized beyond the full extent of the Bank's escrow holding.^{3/}

The Bank's action cannot constitute either a "contribution" or an "independent expenditure" as defined by the Act, and the first alleged violation is therefore without merit.

B. Second Alleged Violation

IDL contends that the Bank has violated the reporting requirements imposed by the Act and the Commission's regulations by refusing to provide sufficient information concerning chargebacks by contributors. According to IDL, it cannot report transactions to the Commission as a result, thus causing the Bank to violate 2 U.S.C. §§ 432(c), 434(b), and 11 CFR §§ 102.9(a), 104.3(a).

IDL misunderstands the reporting requirements imposed by these provisions. Other than independent expenditures (discussed above), those requirements apply only to treasurers of political committees. 2 U.S.C. § 434(a)(1), 11 C.F.R. § 104.1. They do not impose reporting obligations on entities which do business with political committees or candidates, including financial institutions. Neither the Bank nor any other business that furnishes services to a political committee is subject to any statutory or regulatory obligation to facilitate a political committee's satisfaction of its requirements under the Act.

^{3/} Between November 1 and December 16, 1984, chargebacks against complainants' accounts totalled \$216,172.00. See Cribbin Affidavit filed December 19, 1984 in First Fidelity Bank v. LaRouche, supra.

Charles W. Steele
January 3, 1985
Page 5

Indeed, both Congress and this Commission anticipated reporting difficulties that could arise in the event of a dispute between a merchant and a political committee. The Act provides that "when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or Chapter 95 or Chapter 96 of Title 26." 2 U.S.C. § 432(i); 11 C.F.R. §§ 102.9(d), 104.7. IDL, therefore, is required only to exercise its best efforts to obtain the necessary information in order to comply with the obligations imposed by the Act.

Because (1) the Act imposes no reporting requirements upon an entity such as the Bank, and (2) IDL is required only to use its best efforts to obtain the information subject to the reporting requirements, the second alleged violation has no basis in law.

C. Third Alleged Violation

A political committee must establish a depository for campaign funds pursuant to 2 U.S.C. § 432h(1) and 11 C.F.R. § 103.2. It must officially designate such a depository and inform the Commission of such designation. IDL alleges that the Bank's termination of its accounts "without prior notice" violated these provisions by leaving IDL without a depository.

Like the reporting requirements, the Act's depository requirements do not apply to an entity such as the Bank. They apply explicitly to political committees. 2 U.S.C. § 432h(1), 11 C.F.R. § 103.2. The Bank is under no obligation, nor is any other financial institution, to tailor its business practices in order to ensure that a political committee has a depository in existence at every moment.

Moreover, the applicable statutory provisions and regulations do not indicate that a political committee commits a violation during the interim between its loss of a depository and its selection of a new one. Indeed, in the event of a dispute such as that which has arisen between IDL and the Bank, the reasonable interpretation is precisely the opposite, i.e., that the political committee would be expected to have a reasonable amount of time to designate a new depository. IDL's allegation implies that the Commission's regulations compel the selection of only one depository, and if a problem arises with that depository the

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Charles N. Steele
January 3, 1985
Page 6

political committee would necessarily be in violation of the rules. In fact, the Act and the Commission's regulations expressly contemplate the designation of "one or more" financial institutions "as its campaign depository or depositories." Id. (emphasis supplied). If the LaRouche committees had not previously established depositories other than the Bank, their appropriate and sensible response to the dispute was to designate a new depository, not to allege a frivolous violation against the Bank.

Neither the Act nor the Commission's regulations impose any obligations upon the Bank with respect to the maintenance of depositories by political committees. Accordingly, the third alleged violation is without merit.

D. Fourth Alleged Violation

The basis for IDL's fourth alleged violation is somewhat difficult to comprehend, and IDL does not identify any specific statutory sections or rules that have purportedly been violated. IDL contends that the Bank's actions have made it unable to meet the demands of creditors and to raise funds prior to its opening of a new account elsewhere, and have damaged IDL's goodwill. IDL then states that "the damage to the campaign's fundraising abilities thus constitutes a second illegal corporate contribution to a federal campaign, again in the form of actions directed against a particular candidate." IDL Complaint at 3.

This statement appears simply to restate IDL's first alleged violation concerning purported illegal campaign contributions. The discussion above of the statutory terms "contribution" and "independent expenditure" apply equally with respect to the fourth alleged violation. In its fourth allegation, IDL similarly fails to state facts suggesting that the Bank has made any "contribution" or "independent expenditure" as those terms are defined by the Act. Its allegations are simply conclusory and insufficient to make out the elements of a violation. See In Re Federal Election Campaign Act Litigation, 474 F. Supp. 1044, 1046 (D.D.C. 1979).

IDL cannot transform a common and fundamental banking practice into a violation of the federal election laws. No action undertaken by the Bank can remotely be perceived as intended to advance the election or defeat of any candidate. The Bank was simply acting in its business capacity as a financial institution. The LaRouche campaign committees have an appropriate forum -- the United States

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January 3, 1985
Page 7

District Court -- to state any grievances against the Bank's business practices. Their attempt to use the Commission's compliance process by stretching the election laws and regulations far beyond their natural boundaries has no legal basis and must be dismissed.

IV. The LaRouche Campaign Allegations
Against the Bank

On the same day that IDL filed its complaint, the LaRouche Campaign filed one alleging virtually identical violations. It was based on the same set of facts that gave rise to the IDL complaint and accused the Bank of two violations very similar to two of the four IDL claims. Rather than reiterate the deficiencies in each alleged violation, the Bank summarizes below the grounds for dismissing each alleged violation and refers to the relevant, more detailed discussion in its preceding response to the IDL complaint.

A. First Alleged Violation

The Campaign alleges a violation of 2 U.S.C. §§ 432c, 434b and 11 C.F.R. §§ 102.9(a), 104.3(a), the sections that impose reporting requirements on political committees. Similar to the IDL assertions above (in its second alleged violation), the Campaign contends that the Bank's refusal to provide certain data has prevented it from satisfying the Commission's reporting requirements, resulting in a violation of these provisions.

As discussed in detail above, this alleged violation is without merit. The Campaign has not established the elements that form the basis for such a violation and has ignored two fundamental points: (1) that the Bank has no statutory or regulatory obligations with respect to the reporting requirements imposed on political committees; and (2) that Congress has provided for dispute situations such as the one in this case with the "best efforts" clause of the Act.

Accordingly, for the reasons stated herein and in response to IDL's second alleged violation above, this claim must be dismissed.

B. Second Alleged Violation

It is difficult to reply to this allegation, because it neither identifies a specific Bank action that is supposedly unlawful, nor does it cite statutory or regula-

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Charles N. Steele
January 3, 1985
Page 8

tory provisions that were supposedly violated. The Campaign claims that the Bank's termination of its account and its placing of certain funds in escrow have undercut the Campaign's ability to retire campaign debt, damaged its fundraising capabilities, and interfered with its normal functioning.

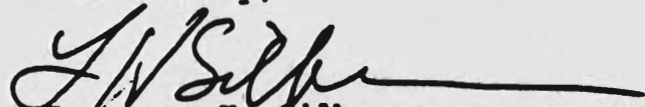
These facts do not form the basis of a valid complaint under the federal election laws or the regulations of this Commission. A financial institution, or any entity doing business with a political committee, is under no obligation to tailor or alter its practices in order to enhance the fundraising capability of a political committee. The Campaign cites no statutory or regulatory provisions in support of its second alleged violation because there simply are no provisions that have any applicability to the facts as stated by the Campaign.

Accordingly, for the reasons stated herein and in response to IDL's fourth alleged violation above, this claim must be dismissed.

V. Conclusion

There exists a dispute between the complainants and the Bank. It is a business dispute that is currently being litigated in federal court in New Jersey. If the complainants' theories had any merit, every business dispute between a political committee and a merchant or financial institution, which interferes in some way with a political campaign's normal functioning, could be elevated into a potential violation of federal election laws or regulations. The complaints as filed assert purported violations in a conclusory fashion and do not set out the elements of a violation under the Act or the Commission's rules. Accordingly, for the reasons set forth herein, the Bank respectfully requests that the Commission dismiss the complaints filed against the First Fidelity Bank and Mr. Ferguson by the LaRouche Campaign and Independent Democrats for LaRouche.

Yours truly,


Laurence H. Silberman

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Attachment



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Edward Spannaus
The LaRouche Campaign
P.O. Box 2150, GPO
New York, New York 10116

Re: MUR 1854

Dear Mr. Spannaus:

85040512246
The Federal Election Commission has reviewed the allegations of your complaint dated November 16, 1984, and denominated MUR 1853. On , 1985, the Commission voted to merge MUR 1853, a matter involving similar allegations, with MUR 1854. Also on that date, the Commission determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a) (8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a) (1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Gerald Rose
Independent Democrats for
LaRouche
P.O. Box 859 - Radio City Station
New York, New York 10101

Re: MUR 1854

Dear Mr. Rose:

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The Federal Election Commission has reviewed the allegations of your complaint dated November 16, 1984, and denominated MUR 1854. On , 1985, the Commission voted to merge MUR 1853, a matter involving similar allegations, with MUR 1854. Also on that date, the Commission determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

Attachment 6



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**Robert R. Ferguson
Chairman and Chief Executive Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, New Jersey 07192**

**Re: MUR 1854
First Fidelity Bank NA of
New Jersey
Robert R. Ferguson, Chairman
and Chief Executive Officer**

Dear Mr. Ferguson:

On November 29, 1984, the Commission notified the First Fidelity Bank of New Jersey and you, as chairman and CEO of the complaints in MUR 1853 and MUR 1854 alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On , 1985, the Commission voted to merge MUR 1853 with MUR 1854. Also on that date, the Commission determined that on the basis of the information in the complaints, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

**Charles N. Steele
General Counsel**

**By Kenneth A. Gross
Associate General Counsel**

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO:

CHARLES N. STEELE
GENERAL COUNSEL *mwe*

FROM:

MARJORIE W. EMMONS/JODY C. RANSOM *jck*

DATE:

JANUARY 7, 1985

SUBJECT:

MUR 1853/1854 - First General Counsel's
Report signed January 3, 1985

The above-captioned matter was circulated to the Commission on a 24 hour no-objection basis at 2:00, January 4, 1985.

There were no objections to the First General Counsel's Report at the time of the deadline.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Cot*
DATE: January 3, 1985
SUBJECT: MUR 1853/1854 - First General Counsel's Report

The attached is submitted as an Agenda document
for the Commission Meeting of _____
Open Session _____
Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[]	Compliance	[X]
Sensitive	[]	Audit Matters	[]
Non-Sensitive	[]	Litigation	[]
24 Hour No Objection	[X]	Closed MUR Letters	[]
Sensitive	[X]	Status Sheets	[]
Non-Sensitive	[]	Advisory Opinions	[]
Information	[]	Other (see distribution below)	[]
Sensitive	[]		
Non-Sensitive	[]		
Other	[]		

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SENSITIVE

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OFFICE OF THE FEC
COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION

1325 K Street, N.W.
Washington, D.C. 20463 JAN 3 12:03

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL 1/3/85
12:00

MUR # 1853
MUR # 1854
DATE COMPLAINT
RECEIVED BY OGC
November 19, 1984
DATE OF NOTIFICATION
TO RESPONDENTS
November 29, 1984
STAFF Charles W.
Snyder

COMPLAINANTS:

MUR 1853-
The LaRouche Campaign,
Edward Spannaus, as treasurer
MUR 1854-
Independent Democrats for LaRouche,
Gerald Rose, as treasurer

RESPONDENTS:

First Fidelity Bank of New Jersey
and Robert Ferguson, Chairman &
CEO

RELEVANT STATUTES:

2 U.S.C. §§ 432(c),
432(h)(1), 434(b), 441b,
11 C.F.R. §§ 102.9(a),
103.2, 104.3(a)

INTERNAL REPORTS CHECKED:

None

FEDERAL AGENCIES CHECKED:

None

BACKGROUND

Complainant (MUR 1854) Independent Democrats for LaRouche (hereinafter IDL) was the principal authorized campaign committee for Mr. Lyndon H. LaRouche's candidacy for President in the 1984 general election. Complainant (MUR 1853) the LaRouche Campaign (hereinafter TLC) was the principal authorized campaign committee for Mr. LaRouche's candidacy for the 1984 Democratic Presidential nomination. Since the two committees are thus related, and

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because both complaints raise identical allegations against identical Respondents, the two MURs will be considered together. Recommendations concerning the possibility of merger will be discussed when substantive recommendations are made to the Commission on this matter.

Both committees maintained campaign depositories in the First Fidelity Bank of New Jersey (hereinafter the "Bank"). The complainants allege that the Bank and its Chairman and CEO (Robert Ferguson) violated the Federal Election Campaign Act (hereinafter the "Act") in that they did the following:

1. terminated both committees' respective checking accounts;
2. terminated without prior notice the committees' ability to accept and deposit contributions by credit card;
3. removed the funds already deposited in the respective accounts (\$170,000 in the IDL account, \$30,000 in the TLC account) and placed them in escrow as a reserve against anticipated charge-backs by credit card contributors; and
4. failed to provide IDL and TLC with account memoranda identifying individuals who charged back their credit card contributions to the committees.

IDL has further alleged that the Bank improperly refused to process \$112,650 in deposits to its account.

The complainants argue that the actions just outlined involve violations of the Act on four grounds. The first two of these legal arguments, as enumerated hereafter, as raised by both complainants; the third and fourth are raised by IDL alone.

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1. The Bank's refusal to release debt memoranda concerning contributor charge-backs impedes the campaign committees' efforts to report information concerning contributions in violation of 2 U.S.C. §§ 432(c) and 434(b) and 11 C.F.R. §§102.9(a) and 104.3(a).

2. The Bank's action deprived the committees of a depository, making it impossible to meet the demands of creditors.

3. The Bank's refusal to permit access to the funds on deposit forced IDL to cancel a planned election eve broadcast on CBS, with resultant risk of contractual liability to the network. IDL regards the Bank's action as equivalent to an expenditure by the Bank, in violation 2 U.S.C. § 441b, against the LaRouche candidacy in the amount of \$236,484 (the cost of the broadcast).

4. The Bank put IDL in the position of having no depository. Every political committee is required under the Act to maintain such a depository. 2 U.S.C. §432(h)(1). IDL concludes therefore that the Bank has violated that statute.

On the last point, it should be noted that, subsequent to this complaint, the Hon. Harry A. Margolis, Judge of the Superior Court of New Jersey, Chancery Division: Essex County, ordered the Bank to credit the accounts of TLC and IDL. Although Judge Margolis enjoined any withdrawals or drafts on these accounts without Court Order, complainants would now appear to have campaign depositories even if they lack free access to the funds deposited therein.

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FACTUAL AND LEGAL ANALYSIS

IDL and TLC both filed their complaints with the Commission on November 19, 1984. This office notified the Respondents on November 29th that these matters were pending. On December 17, counsel for Respondents requested a fifteen day extension of time in which to respond to the complaint. This office found that request reasonable under the circumstances and therefore granted it. The response is now expected by January 3, 1985, and a General Counsel's Report addressing the question whether there is reason to believe a violation occurred in this case will be forthcoming shortly thereafter.

Charles N. Steele
General Counsel

Jan 3, 1985
Date

By:

Kenneth A. Gross
Associate General Counsel

Attachments

1. Complaint MUR 1853
2. Complaint MUR 1854

85040512254

ATTACHMENT 1

Mel Klenetsky
National Campaign Director
Edward Spannaus
Treasurer

P.O. Box 2150, GPO, New York, N.Y. 10116, (212) 247-8820

November 16, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street NW
Washington, DC 20463

Mr. Steele:

This constitutes formal complaints against Fidelity Bank NA of New Jersey ("Fidelity") and officers of the bank as identified below for violations of the Federal Election Campaign Act. Fidelity has been the principal depository for The LaRouche Campaign ("the committee"). On November 2, 1984 the bank unilaterally terminated the committee's business checking account and its merchant agreement for the deposit of credit card contributions. At the same time \$30,000 of committee funds were sequestered to an escrow account for the ostensible purpose of establishing a reserve against contributor chargebacks.

Since the termination of its contracts with The LaRouche Campaign, the bank has refused to provide the committee with any documentation pertaining to activity on the account. Such documentation includes identification of individuals whose contributions have been charged back (debited to the account), and the amounts of such chargebacks. At the committee's last meeting with the bank on November 5, 1984, such debit memoranda were shown to the committee but then withheld by the bank, and have not been provided since.

Since the committee cannot report the relevant contributor transactions without these bank memoranda (transactions which would be itemized as negative items on Schedule A for Lines 17a and 19b, and as adjusted year-to-date aggregates on both these schedules), the committee's Reports of Receipts and Expenditures could be materially in error starting with the November 20, 1984 report. This represents a violation of 2 U.S.C. 432(c) and 434(b), and 11 C.F.R. 102.9(a) and 104.3(a), respecting both the maintenance of records and the reporting of those transactions. As well, the committee is also unable to maintain proper documentation for these transactions.

As a second cause of complaint, the bank's termination of the committee's account without notification and its sequestration of \$30,000 in committee deposits has severely undercut the committee's ability to retire campaign debt, both from the loss of funds, and from the damage done to the committee's fundraising capabilities for lack of a merchant

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agreement enabling the raising of contributions by credit card. As is well known to the FEC Audit Division, this mode of fundraising has represented a significant share of the committee's overall fundraising program.

Such debt consists primarily of obligations to individual lenders, several of whom have already lodged complaints with the Federal Election Commission in respect of alleged arrears on their loans; and of which complaints, several have already resulted in Matters Under Review having been initiated by the Commission directed to The LaRouche Campaign. The bank's actions have severely jeopardized the committee's ability to retire these campaign debts in a timely fashion; and through the disruptions caused by the complaints of the lenders whose debts thus cannot be paid, these bank actions also create further interference with normal committee functioning.

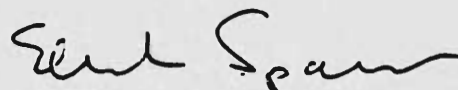
I therefore request that your office open an investigation into the actions of the bank, for violations of the statutes and regulations identified above. This complaint is to be understood as filed against both of the following entities or individuals:

First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

Robert R. Ferguson
Chairman and Chief Executive Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

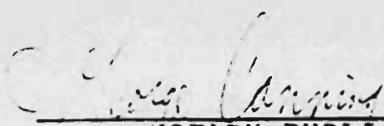
I will expect notification of your opening a Matter Under Review to be mailed to both us and the respondents within five days of receipt of this complaint.

I swear that the facts described herein are true and complete to the best of my knowledge.



Edward Spannaus
Treasurer

Sworn to before me this
16th day of November, 1984.



NOTARY PUBLIC STATE OF NEW YORK
GEORGE CANINE
NO. 4738776
JAN 1985 - NEW YORK COUNTY
EXPIRES 7/2/85

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**INDEPENDENT
DEMOCRATS
for
LaRouche**

Debra Hanania-Freeman, Chairman

Gerard P. Trempier, Treasurer

59

P.O. Box 859, Radio City Station, New York, N.Y. 10101 (212) 247-8820

November 16, 1984

Charles N. Steele, General Counsel
Federal Election Commission
1325 K Street, NW
Washington, DC 20463

INUR
1854

Mr. Steele:

This is to inform you of violations of the Federal Election Campaign Act and Regulations which require your establishing a Matter Under Review investigation. This complaint addresses four specific areas of violation, as specified below, and is filed against the following two respondents:

First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

Robert R. Ferguson
Chairman and Chief Executive Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

First Fidelity Bank NA of New Jersey has been the sole depository for Independent Democrats for LaRouche since July 31, 1984. On November 2, 1984 the bank broke its contractual arrangements with the committee by terminating the committee's checking account and its ability to accept and deposit contributions by credit card, without proper notification. The bank also removed \$170,000 in committee funds on deposit, to set up a fund for the payment of presumed future chargebacks by contributors to the campaign. In addition to the \$170,000 so removed, the bank refused to process the committee's deposits of November 1, totalling \$112,650.00

The combined illegal removal of committee funds on deposit, and refusal to accept new deposits, forced the committee to violate its contract with the CBS Television network for a half-hour paid political broadcast to have been shown at 8:30 PM EST on November 5, 1984, the eve of the General Election in which Mr. LaRouche was a presidential candidate.

Since terminating the committee's accounts, the bank has also failed to provide the committee with routine debit memoranda identifying contributions being charged back to the committee by contributors, chargebacks which the committee

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knows to exist, and the payment of which was the purported reason for the sequestration of \$170,000 on November 1.

The bank's actions constituted and continue to constitute violations of the Federal Election Campaign Act as follows:

First Violation

In blocking committee access to its funds on deposit, the bank forced the cancellation of a contracted prime-time television broadcast by the campaign on election eve, an obviously critical time when all three major candidates were conducting such broadcasts. This cancellation represented a catastrophic disruption of and interference with the conduct of the campaign. It represents an illegal corporate contribution to a federal campaign in the form of an Independent Expenditure against a particular candidate in the amount of at least \$236,484.00, the cost of the cancelled CES broadcast, and possibly more should damages or penalties have to be paid to CES as a result of a possible breach of contract suit entered against the campaign. The committee had, moreover, notified the bank days in advance of its intended use of its funds, and the bank was therefore fully aware of the impact of its actions on a federal political campaign.

Second Violation

In holding up release of debit memoranda representing contributor chargebacks, the bank is preventing disclosure of the names, dates, and amounts of contributions to a federal campaign committee, in violation of 2 U.S.C. 432(c) and 434(b), and 11 C.F.R. 102.9(a) and 104.3(a). The committee cannot report transactions of which it can have no knowledge.

Third Violation

In terminating the committee's accounts without prior notice, the bank has placed the committee in the position of having no depository, a violation of 2 U.S.C. 432(h)(1) and 11 C.F.R. 103.2 and 103.3(a).

Fourth Violation

Without a depository, it has been impossible for the committee to raise funds during the time between the termination of its account at First Fidelity and its opening of a new account elsewhere. It has also been impossible to make disbursements against the \$170,000 removed by the bank from the committee's account. This has put the committee in a position of being unable to meet the demands of multiple creditors, subjecting it to possible legal collection actions.

This inability to raise funds for a critical period of time has also significantly damaged the committee's good relations with individual lenders who would otherwise have received payment on their loans, and would have remained supporters willing to provide future contributions based on the goodwill established by such past performance.

The ill-will so created, moreover, is not confined to the individual contributors affected. Complaints lodged by such individuals with banks, with the press and media, and with federal regulatory agencies such as the FEC, create a more generalized atmosphere of suspicion and hostility towards the campaign. That atmosphere, however unsubstantiated by fact, is in turn communicated to many other individuals and institutions by stories in the press and media, and by comments made to the public by employees of, among other institutions, the Public Records Office of the Federal Election Commission. There are many instances on record of each one of these consequences, some of which are or will shortly be the cause of further actions by the committee.

The damage to the campaign's fundraising capabilities thus constitutes a second illegal corporate contribution to a federal campaign, again in the form of actions directed against a particular candidate.

For these reasons, I therefore request that you establish an investigation pursuant to a Matter Under Review and notify complainant and respondents as prescribed by the Federal Election Campaign Act and Regulations.

I swear to the truth of these statements.

Gerald Rose

Gerald Rose
Treasurer

Sworn to before me this
16th day of November, 1984.

George Canine

NOTARY PUBLIC STATE OF NEW YORK
GEORGE CANINE
177377
New York County
11/16/84

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LAW OFFICES OF
MORRISON & FOERSTER
 A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
 1920 N STREET, N.W.
 WASHINGTON, D. C. 20036
 TELEPHONE (202) 887-1500
 TELEX 90-4030

SAN FRANCISCO OFFICE
 ONE MARKET PLAZA
 SPEAR STREET TOWER
 SAN FRANCISCO, CALIFORNIA 94105
 TELEPHONE (415) 777-6000

LOS ANGELES OFFICE
 330 SOUTH GRAND AVENUE
 LOS ANGELES, CALIFORNIA 90071
 TELEPHONE (213) 626-3800

DENVER OFFICE
 3100 COLUMBIA PLAZA
 1670 BROADWAY
 DENVER, COLORADO 80202
 TELEPHONE (303) 831-1100

LONDON OFFICE
 12 GROSVENOR PLACE
 LONDON SW1X 7RN
 ENGLAND
 TELEPHONE 235-0381

HONG KONG OFFICE
 ALEXANDRA HOUSE
 CHEATER ROAD
 HONG KONG
 TELEPHONE 5-215557

January 3, 1985

BY HAND

Charles N. Steele
 General Counsel
 Federal Election Commission
 1325 K Street, N.W.
 Washington, D.C. 20463

Re: MUR 1853 ✓
 MUR 1854

Dear Mr. Steele:

On November 19, 1984, Independent Democrats for LaRouche ("IDL") and The LaRouche Campaign ("the Campaign") (collectively "the complainants") filed the above-referenced complaints with the Commission against the First Fidelity Bank N.A., New Jersey ("the Bank") and Robert R. Ferguson, the Bank's chairman and chief executive officer. Pursuant to 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.6, the Bank and Mr. Ferguson hereby respond to each complaint in turn and request that the Commission take no action on either complaint.

I. Introduction

For the reasons stated in detail below, neither complaint states a valid claim under the federal election laws or the Commission's regulations. Even if the facts as stated by each complaint were entirely accurate, the complaints fail to identify any acts by the Bank that constitute violations of the Federal Election Campaign Act or the Commission's rules. Each complaint is accordingly deficient on its face and should be dismissed.

The undisputed facts are the following: Complainants' accounts with the Bank were terminated on November 1, 1984. The Bank placed \$200,000 from those accounts into escrow to provide for anticipated "chargebacks" -- claims by credit card holders that funds deposited into complainants' accounts had been improperly charged on their credit cards. The complainants cancelled a half-hour television broadcast

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Charles N. Steele
January 3, 1985
Page 2

scheduled for November 4, 1984, allegedly because of the unavailability of the funds placed in escrow by the Bank.

These facts depict a dispute between the complainants and the Bank over the Bank's decision to terminate complainants' accounts and to place certain funds in escrow. That dispute is currently being litigated in the United States District Court for the District of New Jersey,^{1/} a proper forum for the resolution of such a dispute. Complainants are improperly attempting to transform such a dispute into a violation of the federal election laws. Their position, if accepted, would create a potential violation in every business dispute between a political committee and a merchant. The complaints have no merit and should be dismissed.

II. Allegations Against Robert Ferguson

IDL and the Campaign name Mr. Ferguson as a respondent to their complaints. The complaints themselves, however, contain no allegations of specific actions by Mr. Ferguson. Accordingly, they are plainly deficient with respect to Mr. Ferguson and cannot form the basis for Commission action.

III. IDL Allegations Against the Bank

The IDL complaint sets out four alleged violations that the Bank will address in turn.

A. First Alleged Violation

IDL first alleges a violation by the Bank on the basis of "an illegal corporate contribution to a federal campaign in the form of an Independent Expenditure against a particular candidate." IDL Complaint at 2. This "illegal corporate contribution" purportedly arose from the inability of the LaRouche campaign committees to pay for a prime time television broadcast. IDL alleges that the cost of the cancelled broadcast, \$236,484.00 (plus any penalties to CBS), constitutes the supposed unlawful independent expenditure.

^{1/} First Fidelity Bank and Robert Ferguson v. LaRouche Campaign, et. al., Civil Action No. 84-4849A consolidated with IDL and the LaRouche Campaign v. First Fidelity Bank, No. 84-4685.

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MORRISON & FOERSTER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Charles N. Steele
January 3, 1985
Page 3

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This allegation has no basis in law or in the Commission's regulations. It is noteworthy that the complaint does not cite any statutory provision or section of the rules presumably violated. Under the Federal Election Campaign Act ("the Act"), "independent expenditures" above a certain level are subject to reporting and disclosure requirements. 2 U.S.C. § 434(c). The acts complained of by IDL, however, do not even arguably fall under the definition of "Independent Expenditure" set out in 2 U.S.C. § 431(17). Under that provision, an Independent Expenditure "means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate." It has been held that the words "expressly advocating" mean "exactly what they say," "requiring an unambiguous statement" urging the election or defeat of a clearly identified candidate. See FEC v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45, 53 (2nd Cir. 1980). In this case, there is not even a statement, much less an "unambiguous" one. The Bank's decision to terminate IDL's account and withhold certain funds cannot be construed as "expressly advocating the election or defeat of a clearly identified candidate," and the complaint neither makes such an allegation nor states facts that would give rise to the inference of express advocacy.

Similarly, the complaint does not state facts to support its allegation of an "illegal corporate contribution" separate and apart from the independent expenditure allegation. The term "contribution" means the donation of anything of value "for the purpose of influencing any election for federal office."^{2/} While the complaint states

^{2/} The full definition of "contribution" in 2 U.S.C. § 431(8) reads as follows:

The term "contribution" includes --

(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

MORRISON & FOERSTER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Charles N. Steele
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Page 4

that the Bank was aware "of the impact of its action on a federal political campaign," it neither alleges nor states any facts which even give rise to the inference that the Bank's purpose was to influence an election. To the contrary, the complaint states that the Bank "removed \$170,000.00 in Committee funds on deposit, to set up a fund for the payment of presumed future chargebacks by contributors to the Campaign." IDL Complaint at 1. As the complaint thus recognizes, the Bank's purpose was to protect itself against future chargebacks, which in fact have materialized beyond the full extent of the Bank's escrow holding.^{3/}

The Bank's action cannot constitute either a "contribution" or an "independent expenditure" as defined by the Act, and the first alleged violation is therefore without merit.

B. Second Alleged Violation

IDL contends that the Bank has violated the reporting requirements imposed by the Act and the Commission's regulations by refusing to provide sufficient information concerning chargebacks by contributors. According to IDL, it cannot report transactions to the Commission as a result, thus causing the Bank to violate 2 U.S.C. §§ 432(c), 434(b), and 11 CFR §§ 102.9(a), 104.3(a).

IDL misunderstands the reporting requirements imposed by these provisions. Other than independent expenditures (discussed above), those requirements apply only to treasurers of political committees. 2 U.S.C. § 434(a)(1), 11 C.F.R. § 104.1. They do not impose reporting obligations on entities which do business with political committees or candidates, including financial institutions. Neither the Bank nor any other business that furnishes services to a political committee is subject to any statutory or regulatory obligation to facilitate a political committee's satisfaction of its requirements under the Act.

^{3/} Between November 1 and December 16, 1984, chargebacks against complainants' accounts totalled \$216,172.00. See Cribbin Affidavit filed December 19, 1984 in First Fidelity Bank v. LaRouche, supra.

MORRISON & FOERSTER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Charles N. Steele
January 3, 1985
Page 5

Indeed, both Congress and this Commission anticipated reporting difficulties that could arise in the event of a dispute between a merchant and a political committee. The Act provides that "when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or Chapter 95 or Chapter 96 of Title 26." 2 U.S.C. § 432(i); 11 C.F.R. §§ 102.9(d), 104.7. IDL, therefore, is required only to exercise its best efforts to obtain the necessary information in order to comply with the obligations imposed by the Act.

Because (1) the Act imposes no reporting requirements upon an entity such as the Bank, and (2) IDL is required only to use its best efforts to obtain the information subject to the reporting requirements, the second alleged violation has no basis in law.

C. Third Alleged Violation

A political committee must establish a depository for campaign funds pursuant to 2 U.S.C. § 432h(1) and 11 C.F.R. § 103.2. It must officially designate such a depository and inform the Commission of such designation. IDL alleges that the Bank's termination of its accounts "without prior notice" violated these provisions by leaving IDL without a depository.

Like the reporting requirements, the Act's depository requirements do not apply to an entity such as the Bank. They apply explicitly to political committees. 2 U.S.C. § 432h(1), 11 C.F.R. § 103.2. The Bank is under no obligation, nor is any other financial institution, to tailor its business practices in order to ensure that a political committee has a depository in existence at every moment.

Moreover, the applicable statutory provisions and regulations do not indicate that a political committee commits a violation during the interim between its loss of a depository and its selection of a new one. Indeed, in the event of a dispute such as that which has arisen between IDL and the Bank, the reasonable interpretation is precisely the opposite, *i.e.*, that the political committee would be expected to have a reasonable amount of time to designate a new depository. IDL's allegation implies that the Commission's regulations compel the selection of only one depository, and if a problem arises with that depository the

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January 3, 1985
Page 6

political committee would necessarily be in violation of the rules. In fact, the Act and the Commission's regulations expressly contemplate the designation of "one or more" financial institutions "as its campaign depository or depositories." Id. (emphasis supplied). If the LaRouche committees had not previously established depositories other than the Bank, their appropriate and sensible response to the dispute was to designate a new depository, not to allege a frivolous violation against the Bank.

Neither the Act nor the Commission's regulations impose any obligations upon the Bank with respect to the maintenance of depositories by political committees. Accordingly, the third alleged violation is without merit.

D. Fourth Alleged Violation

The basis for IDL's fourth alleged violation is somewhat difficult to comprehend, and IDL does not identify any specific statutory sections or rules that have purportedly been violated. IDL contends that the Bank's actions have made it unable to meet the demands of creditors and to raise funds prior to its opening of a new account elsewhere, and have damaged IDL's goodwill. IDL then states that "the damage to the campaign's fundraising abilities thus constitutes a second illegal corporate contribution to a federal campaign, again in the form of actions directed against a particular candidate." IDL Complaint at 3.

This statement appears simply to restate IDL's first alleged violation concerning purported illegal campaign contributions. The discussion above of the statutory terms "contribution" and "independent expenditure" apply equally with respect to the fourth alleged violation. In its fourth allegation, IDL similarly fails to state facts suggesting that the Bank has made any "contribution" or "independent expenditure" as those terms are defined by the Act. Its allegations are simply conclusory and insufficient to make out the elements of a violation. See In Re Federal Election Campaign Act Litigation, 474 F. Supp. 1044, 1046 (D.D.C. 1979).

IDL cannot transform a common and fundamental banking practice into a violation of the federal election laws. No action undertaken by the Bank can remotely be perceived as intended to advance the election or defeat of any candidate. The Bank was simply acting in its business capacity as a financial institution. The LaRouche campaign committees have an appropriate forum -- the United States

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MORRISON & FOERSTER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Charles N. Steele
January 3, 1985
Page 7

District Court -- to state any grievances against the Bank's business practices. Their attempt to use the Commission's compliance process by stretching the election laws and regulations far beyond their natural boundaries has no legal basis and must be dismissed.

IV. The LaRouche Campaign Allegations Against the Bank

On the same day that IDL filed its complaint, the LaRouche Campaign filed one alleging virtually identical violations. It was based on the same set of facts that gave rise to the IDL complaint and accused the Bank of two violations very similar to two of the four IDL claims. Rather than reiterate the deficiencies in each alleged violation, the Bank summarizes below the grounds for dismissing each alleged violation and refers to the relevant, more detailed discussion in its preceding response to the IDL complaint.

A. First Alleged Violation

The Campaign alleges a violation of 2 U.S.C. §§ 432c, 434b and 11 C.F.R. §§ 102.9(a), 104.3(a), the sections that impose reporting requirements on political committees. Similar to the IDL assertions above (in its second alleged violation), the Campaign contends that the Bank's refusal to provide certain data has prevented it from satisfying the Commission's reporting requirements, resulting in a violation of these provisions.

As discussed in detail above, this alleged violation is without merit. The Campaign has not established the elements that form the basis for such a violation and has ignored two fundamental points: (1) that the Bank has no statutory or regulatory obligations with respect to the reporting requirements imposed on political committees; and (2) that Congress has provided for dispute situations such as the one in this case with the "best efforts" clause of the Act.

Accordingly, for the reasons stated herein and in response to IDL's second alleged violation above, this claim must be dismissed.

B. Second Alleged Violation

It is difficult to reply to this allegation, because it neither identifies a specific Bank action that is supposedly unlawful, nor does it cite statutory or regula-

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MORRISON & FOERSTER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Charles N. Steele
January 3, 1985
Page 8

tory provisions that were supposedly violated. The Campaign claims that the Bank's termination of its account and its placing of certain funds in escrow have undercut the Campaign's ability to retire campaign debt, damaged its fund-raising capabilities, and interfered with its normal functioning.

These facts do not form the basis of a valid complaint under the federal election laws or the regulations of this Commission. A financial institution, or any entity doing business with a political committee, is under no obligation to tailor or alter its practices in order to enhance the fundraising capability of a political committee. The Campaign cites no statutory or regulatory provisions in support of its second alleged violation because there simply are no provisions that have any applicability to the facts as stated by the Campaign.

Accordingly, for the reasons stated herein and in response to IDL's fourth alleged violation above, this claim must be dismissed.

V. Conclusion

There exists a dispute between the complainants and the Bank. It is a business dispute that is currently being litigated in federal court in New Jersey. If the complainants' theories had any merit, every business dispute between a political committee and a merchant or financial institution, which interferes in some way with a political campaign's normal functioning, could be elevated into a potential violation of federal election laws or regulations. The complaints as filed assert purported violations in a conclusory fashion and do not set out the elements of a violation under the Act or the Commission's rules. Accordingly, for the reasons set forth herein, the Bank respectfully requests that the Commission dismiss the complaints filed against the First Fidelity Bank and Mr. Ferguson by the LaRouche Campaign and Independent Democrats for LaRouche.

Yours truly,


Laurence H. Silberman

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 27, 1984

Laurence H. Silberman, Esquire
Morrison & Foerster
1920 N Street, N.W.
Washington, D.C. 20036

Re: MURs 1853 and 1854

Dear Mr. Silberman:

Your written request for an extension of time in which to respond to the complaints filed against your client, First Fidelity Bank NA of New Jersey, is hereby granted.

Please bear in mind that your response is now due January 3, 1985.

If you have any questions, please contact Charles W. Snyder, the attorney handling this matter at 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: 
Kenneth A. Gross
Associate General Counsel

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1853/54

MUR _____

NAME OF COUNSEL: Laurence H. Silberman

ADDRESS: & Morrison & Foerster

1920 N Street, N.W.

Washington, D.C. 20036

TELEPHONE:

(202) 887- 1566

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

12-19-84
Date

Howard E. Miller
Signature

RESPONDENT'S NAME: First Fidelity Bank, N.A., New Jersey

ADDRESS: 550 Broad Street

Newark, New Jersey 07192

HOME PHONE:

BUSINESS PHONE: 201-565-3631

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DESCRIPTION OF PRELIMINARY PROCEDURES
FOR PROCESSING COMPLAINTS FILED WITH THE
FEDERAL ELECTION COMMISSION

Complaints filed with the Federal Election Commission shall be referred to the Enforcement Division of the Office of General Counsel, where they are assigned a MUR (Matter Under Review) number and assigned to a staff member. Within 5 days of receipt of a complaint, the Commission shall notify, in writing, the respondent listed in the complaint that the complaint has been filed and shall include with such notification a copy of the complaint. Simultaneously, the complainant shall be notified that the complaint has been received and will be acted upon. The respondent(s) shall then have 15 days to demonstrate, in writing, that no action should be taken against him/her in response to the complaint.

At the end of the 15 days, the Office of General Counsel shall report to the Commission making a recommendation(s) based upon a preliminary legal and factual analysis of the complaint and any submission made by the respondent(s). A copy of respondent's submission shall be attached to the Office of General Counsel's report and forwarded to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act (FECA) and that the Commission will conduct an investigation of the matter; or (b) that the Commission finds no reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act (FECA) and, accordingly, that the Commission close the file on the matter.

If, by any affirmative vote of four (4) Commissioners, the Commission decides that it has reason to believe that a person has committed or is about to commit a violation of the Federal Election Campaign Act (FECA), the Office of General Counsel shall open an investigation into the matter. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for deposition, and to order answers to interrogatives. The respondent(s) may be contacted more than once by the Commission during its investigation.

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If, during this period of investigation, the respondent(s) indicate a desire to enter into conciliation, the Office of General Counsel staff may begin the conciliation process prior to a finding of probable cause to believe a violation has been committed. Conciliation is an informal method of conference and persuasion to endeavor to correct or prevent a violation of the Federal Election Campaign Act (FECA). Most often, the result of conciliation is an agreement signed by the Commission and the respondent(s). The Conciliation Agreement must be adopted by four votes of the Commission before it becomes final. After signature by the Commission and the respondent(s), the Commission shall make public the Conciliation Agreement.

[If the investigation warrants], and no conciliation agreement is entered into prior to a probable cause to believe finding, the General Counsel must notify the respondent(s) of this intent to proceed to a vote on probable cause to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed. Included with the notification to the respondent(s) shall be a brief setting forth the position of the General Counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, the respondent(s) may submit a brief posing the position of the respondent(s) and replying to the brief of the General Counsel. Both briefs will then be filed with the Commission Secretary and will be considered by the Commission. Thereafter, if the Commission determines by an affirmative vote of four (4) Commissioners, that there is probable cause to believe that a violation of the FECA has been committed or is about to be committed conciliation must be undertaken for a period of at least 30 days but not more than 90 days. If the Commission is unable to correct or prevent any violation of the FECA through conciliation, the Office of General Counsel may recommend that the Commission file a civil suit against the respondent(s) to enforce the Federal Election Campaign Act (FECA). Thereafter, the Commission may, upon an affirmative vote of four (4) Commissioners, institute civil action for relief in the District Court of the United States.

See 2 U.S.C. § 437c, 11 C.F.R. Part 111

First
National
State

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First National State Bancorporation
P.O. Box 11791, Newark, New Jersey 07102

MONTCLAIR, N.J.
DROP SHIPMENT
AUTHORIZATION 8

Federal Election Commission
1325 "K" Street, N.W.
Washington, D.C. 20463

PRESORTED
FIRST CLASS



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SAN FRANCISCO OFFICE
ONE MARKET PLAZA
SPEAR STREET TOWER
SAN FRANCISCO, CALIFORNIA 94103
TELEPHONE (415) 777-6000

LOS ANGELES OFFICE
333 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
TELEPHONE (213) 626-3800

LAURENCE H. SILBERMAN
WASHINGTON, D.C.
DIRECT DIAL (202) 687-1566

LAW OFFICES OF
MORRISON & FOERSTER
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1920 N STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE (202) 687-1500
TELEX 90-4090

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300 COLUMBIA PLAZA
1670 BROADWAY
DENVER, COLORADO 80202
TELEPHONE (303) 631-1100

LONDON OFFICE
18 OROSVENOR PLACE
LONDON SW1X 7HN
ENGLAND
TELEPHONE 235-0561

HONG KONG OFFICE
ALEXANDRA HOUSE
CRATER ROAD
HONG KONG
TELEPHONE 5-215557

Mure
1853
1854
Snyder

December 18, 1984

BY MESSENGER

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
5th Floor
Washington, D.C. 20463

My firm has just yesterday been retained to represent First Fidelity Bank NA of New Jersey in connection with the complaints filed before the Commission November 16 and 19th.

I request a 15 day extension of the time required to answer the complaint in writing.

Very truly yours,

L. H. Silberman
Laurence H. Silberman

LHS/dat

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION

CHAMBERS OF
HARRY A. MARGOLIS
JUDGE



RECEIVED AT THE FEC
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328 HALL OF RECORDS
NEWARK, NEW JERSEY 07102
(201) 621-5124

November 30, 1984

Charles Snyder, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: First Fidelity Bank, N.A. et al v.
The La Rouché Campaign et als
Docket No. C-4791-84E

Dear Sir:

As per your recent request, enclosed is
a copy of the Order in the above matter.

Very truly yours,

Harry A. Margolis
HARRY A. MARGOLIS

HAM:dr
Enc.

85040512274

*Filed
with the court
on 11/19/84
by HARRY A. MARBO/13
HARRY A. MARBO/13*

HANNOCH, WEISMAN, STERN, BESSER, BERKOWITZ & KINNEY
A PROFESSIONAL CORPORATION
744 BROAD STREET
NEWARK, NEW JERSEY 07102
(201) 621-6800
ATTORNEYS FOR Plaintiff

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: ESSEX COUNTY
DOCKET NO.

FIRST FIDELITY BANK N.A.,
NEW JERSEY,

Plaintiffs,

-vs-

Civil Action

THE LAROCHE CAMPAIGN;
INDEPENDENT DEMOCRATS FOR
LAROCHE; CITIZENS FOR LAROCHE,
INC.; LYDON H. LAROCHE, INC.;
GERALD ROSE; DEBRA FREEMAN;
PATRICIA SALISBURY; MEL
KLENETSKY; RICHARD E. WELCH,

ORDER FOR RESTRAINTS
INCORPORATING SUMMONS

Defendants.

on Nov. 16, 1984
This matter having been presented to the court by
Hannoch, Weisman, Stern, Besser, Berkowitz & Kinney, P.A., attorneys
for plaintiff, in the presence of Joel J. Reinfeld, Esq., attorney
for defendants The LaRouche Campaign, Independent Democrats for
LaRouche and Gerald Rose, and the court having reviewed the
verified complaint and other pleadings and papers of record,

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and for good cause shown;

IT IS this 19th day of November, 1984

ORDERED NUNC PRO TUNC as of November 16, 1984,

as follows:

1. The defendants, and each of them, and all of their agents, representatives and employees, shall be and hereby are restrained and enjoined from publishing, distributing or disseminating in any manner or from any location the written materials annexed to this order as Exhibits A and B.

2. Plaintiff shall credit the accounts heretofore maintained in the names of defendants The LaRouche Campaign and Independent Democrats for LaRouche, the sums of \$30,000 and \$170,000 respectively. No withdrawals from said accounts shall be made, and no checks shall be drawn thereon, without further order of the court.

3. Plaintiff shall be and hereby is granted leave to take immediate depositions of any party or witness, upon seven days notice.

4. Any party may move to vacate or modify this order upon two days notice to adverse counsel.

5. A copy of this order, the verified complaint, and the other papers submitted by plaintiff shall be served upon each defendant or their counsel, by personal service within two days

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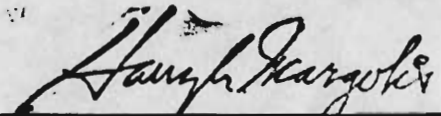
of the date hereof, and in addition, by certified mail, return receipt requested, postmarked within two (2) days of the date hereof. Pursuant to R.4:4-3, any employee or designee of plaintiff's counsel shall be authorized to effect such personal service.

6. This order shall constitute the summons in this matter.

7. Each defendant shall serve a copy of its answer to the complaint upon plaintiff's attorneys, whose address appears above, and shall file an original and a copy of its answer with the Clerk of the Superior Court of New Jersey, CN 971, Trenton, New Jersey 08625, in accordance with the Rules of Court, within twenty (20) days after service of the complaint and this order, exclusive of the date of service; if any defendant fails to so file and serve, judgments by default may be rendered against it for the relief demanded in the complaint.

An individual who is unable to obtain an attorney may communicate with the New Jersey State Bar Association by calling toll free 800-792-8315 (within New Jersey) or 609-394-1101 (from out of state). You may also communicate with a Lawyer Referral Service or, if you cannot afford to pay an attorney,

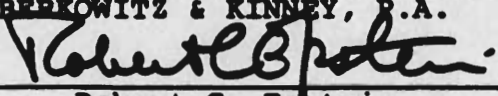
call a Legal Service Office. The phone numbers for the county in which this action is pending are 201-488-0044. Legal Services Offices 201-487-2166. Persons who reside in New Jersey may also call their county Lawyer Referral Service of Legal Service Office.


HARRY A. MARGOLIS
J.S.C.

We hereby consent to the
form of the foregoing
"Order For Restraints
Incorporating Summons"

HANNOCH, WEISMAN, STERN, BESSER, ...
BERKOWITZ & KINNEY, P.A.

By


Robert C. Esptein
Attorneys for Plaintiff

Joel J. Reinfeld
Attorney for Defendants
The LaRouche Campaign,
Independent Democrats
for LaRouche and
Gerald Rose.

**INDEPENDENT
DEMOCRATS
for
LaRouche**

Major New Jersey Bank Caught In Grand Larceny!

Between the hours of 5 p.m. Thursday, Nov. 1 and 9 a.m. Friday, Nov. 2, the First National State Bank of New Jersey, of 550 Broad Street in Newark, removed \$170,000 from the account of Independent Democrats for LaRouche (IDL). It was not until Monday, Nov. 5 that the bank admitted that it had hand debited the account and had put the funds in an escrow account of its own choosing, to be used at the bank's discretion.

The only accurate description of these outrageous actions is grand larceny.

Look at the facts.

- 1) Thursday, Nov. 1 — \$170,000 balance reported in the IDL account.
- 2) 9 a.m. Friday, Nov. 2 — representatives of IDL come to bank to certify check for CBS to pay for scheduled Nov. 5 half-hour campaign television broadcast by Lyndon LaRouche.
- 3) 10 a.m. — IDL unofficially informed by Mr. Albright, the person in charge of the account, that the \$170,000 was not there and the account balance was \$10,000. He instructed IDL representatives to speak with the bank's chief counsel, Harold Mortimer.
- 4) 10:30 a.m. — IDL attorney called bank and was informed, "Mr. Mortimer is not here." When IDL attorney asked for someone in charge of the account, he was informed, "No one in charge of that account is here today."
- 5) 11:00 a.m. — Two representatives from IDL walk into Mr. Mortimer's office and find him sitting at the desk. He argued he had no knowledge of the matter of the IDL account.
- 6) 5 p.m. — IDL receives a telegram — 24 hours after the theft — to the effect that the bank has decided to "close the account."

It was not until 10:30 on Monday, Nov. 5, after a court order issued by Judge Marilyn Loftus, that the bank not only informed IDL that it had closed the account, but that \$170,000 had been seized and put into an escrow account to be used by the bank at its own discretion.

If someone on a bus had taken your wallet and pleaded before a judge that they were merely "hand-debiting" your account for safekeeping, most judges in this country would call it by its rightful name — robbery.

If a bank "hand-debits" \$170,000 from the political contributors of Lyndon LaRouche, and calls it "prudent banking practices," we believe that most judges will also call it by its proper name — robbery.

EXHIBIT A

Actions We Are Taking

On Tuesday, Nov. 13, three actions will be taken.

1) A complaint of criminal violations under Title 18 of the federal code will be filed with the FBI.

2) Court action will be initiated on the bank's violation of its contract with IDL.

3) An exposé will be issued on the First National State Bank of New Jersey's ties to criminal elements opposing the "war on drugs" policy of LaRouche and Reagan.

In addition, since the bank's theft of funds made it impossible for LaRouche to make his scheduled Nov. 5 CBS television broadcast, a lawsuit for damages against the bank and criminal action against its president, Bob Ferguson, will be initiated.

Beware of First National State Bank of New Jersey if you maintain an account there. IDL was a customer that brought the bank over \$150,000 in income, and they did this to us. What will they do to you if they need to?

For further information: (201) 429-0227

WANTED



ROBERT R. FERGUSON, Jr.

President and Chief Executive Officer
First National State Bank of New Jersey

Eyes: Blue

Hair: Gray

Age: 62

FOR GRAND LARCENY

Theft of \$170,000 in campaign funds
from Independent Democrats for LaRouche.

Between the hours of 5 p.m. Thursday, Nov. 1 and 9 a.m. Friday, Nov. 2, the First National State Bank of New Jersey, of 550 Broad Street in Newark, removed \$170,000 from the account of Independent Democrats for LaRouche. The money had been intended as payment for a nationwide CBS-TV broadcast by independent presidential candidate Lyndon H. LaRouche. The payment was due that day. It was not until Monday, Nov. 5 that the bank informed the campaign that it had closed the account and that the \$170,000 had been seized and put into an escrow account to be used by the bank at its own discretion.

The only accurate description of these outrageous actions is *grand larceny*.

For further information, call: (201) 429-4977

Authorized and paid for by Independent Democrats for LaRouche. Circulate Now. Everywhere.

EXHIBIT B

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HARRY A. MARGOLIS
FOR COURT OF NEW JERSEY
COUNTY COURTS BUILDING
ARK, NEW JERSEY 07102-1681



Charles Snyder, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 29, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert R. Ferguson
Chairman and Chief Executive
Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, New Jersey 07192

Re: MUR 1854

Dear Mr. Ferguson: .

This letter is to notify you that on November 19, 1984 the Federal Election Commission received a complaint which alleges that First Fidelity Bank NA of New Jersey and you, as chairman and chief executive officer may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1854. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against First Fidelity Bank NA of New Jersey and you, as chairman and chief executive officer in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

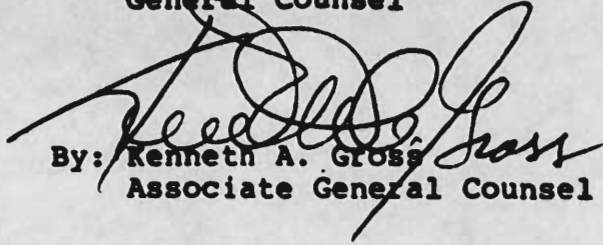
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Charles Snyder, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By: Kenneth A. Gross
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 29, 1984

Gerald Rose
Treasurer
Independent Democrats for LaRouche
P.O. Box 859
Radio City Station
New York, New York 10101

Dear Mr. Rose:

This letter is to acknowledge receipt of your complaint which we received on November 19, 1984, against First Fidelity Bank NA of New Jersey and Robert R. Ferguson, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Barbara A. Johnson at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By 
Kenneth A. Gross
Associate General Counsel

Enclosure

8504051285

**INDEPENDENT
DEMOCRATS
for
LaRouche**

P.O. Box 859, Radio City Station, New York, N.Y. 10101 (212) 247-8820

RECEIVED AT THE FEC
GCC#5717
Debra Hanania-Freeman, Chairman
8-NOV-84, 11:58

November 16, 1984

Charles N. Steele, General Counsel
Federal Election Commission
1325 K Street, NW
Washington, DC 20463

*mur
1854*

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RECEIVED
GENERAL COUNSEL

Mr. Steele:

This is to inform you of violations of the Federal Election Campaign Act and Regulations which require your establishing a Matter Under Review investigation. This complaint addresses four specific areas of violation, as specified below, and is filed against the following two respondents:

First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

Robert R. Ferguson
Chairman and Chief Executive Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

First Fidelity Bank NA of New Jersey has been the sole depository for Independent Democrats for LaRouche since July 31, 1984. On November 2, 1984 the bank broke its contractual arrangements with the committee by terminating the committee's checking account and its ability to accept and deposit contributions by credit card, without proper notification. The bank also removed \$170,000 in committee funds on deposit, to set up a fund for the payment of presumed future chargebacks by contributors to the campaign. In addition to the \$170,000 so removed, the bank refused to process the committee's deposits of November 1, totalling \$112,650.00

The combined illegal removal of committee funds on deposit, and refusal to accept new deposits, forced the committee to violate its contract with the CBS Television network for a half-hour paid political broadcast to have been shown at 8:30 PM EST on November 5, 1984, the eve of the General Election in which Mr. LaRouche was a presidential candidate.

Since terminating the committee's accounts, the bank has also failed to provide the committee with routine debit memoranda identifying contributions being charged back to the committee by contributors, chargebacks which the committee

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knows to exist, and the payment of which was the purported reason for the sequestration of \$170,000 on November 1.

The bank's actions constituted and continue to constitute violations of the Federal Election Campaign Act as follows:

First Violation

In blocking committee access to its funds on deposit, the bank forced the cancellation of a contracted prime-time television broadcast by the campaign on election eve, an obviously critical time when all three major candidates were conducting such broadcasts. This cancellation represented a catastrophic disruption of and interference with the conduct of the campaign. It represents an illegal corporate contribution to a federal campaign in the form of an Independent Expenditure against a particular candidate in the amount of at least \$236,484.00, the cost of the cancelled CBS broadcast, and possibly more should damages or penalties have to be paid to CBS as a result of a possible breach of contract suit entered against the campaign. The committee had, moreover, notified the bank days in advance of its intended use of its funds, and the bank was therefore fully aware of the impact of its actions on a federal political campaign.

Second Violation

In holding up release of debit memoranda representing contributor chargebacks, the bank is preventing disclosure of the names, dates, and amounts of contributions to a federal campaign committee, in violation of 2 U.S.C. 432(c) and 434(b), and 11 C.F.R. 102.9(a) and 104.3(a). The committee cannot report transactions of which it can have no knowledge.

Third Violation

In terminating the committee's accounts without prior notice, the bank has placed the committee in the position of having no depository, a violation of 2 U.S.C. 432(h)(1) and 11 C.F.R. 103.2 and 103.3(a).

Fourth Violation

Without a depository, it has been impossible for the committee to raise funds during the time between the termination of its account at First Fidelity and its opening of a new account elsewhere. It has also been impossible to make disbursements against the \$170,000 removed by the bank from the committee's account. This has put the committee in a position of being unable to meet the demands of multiple creditors, subjecting it to possible legal collection actions.

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This inability to raise funds for a critical period of time has also significantly damaged the committee's good relations with individual lenders who would otherwise have received payment on their loans, and would have remained supporters willing to provide future contributions based on the goodwill established by such past performance.

The ill-will so created, moreover, is not confined to the individual contributors affected. Complaints lodged by such individuals with banks, with the press and media, and with federal regulatory agencies such as the FEC, create a more generalized atmosphere of suspicion and hostility towards the campaign. That atmosphere, however unsubstantiated by fact, is in turn communicated to many other individuals and institutions by stories in the press and media, and by comments made to the public by employees of, among other institutions, the Public Records Office of the Federal Election Commission. There are many instances on record of each one of these consequences, some of which are or will shortly be the cause of further actions by the committee.

The damage to the campaign's fundraising capabilities thus constitutes a second illegal corporate contribution to a federal campaign, again in the form of actions directed against a particular candidate.

For these reasons, I therefore request that you establish an investigation pursuant to a Matter Under Review and notify complainant and respondents as prescribed by the Federal Election Campaign Act and Regulations.

I swear to the truth of these statements.

Gerald Rose
Gerald Rose
Treasurer

Sworn to before me this
16th day of November, 1984.

George Canning

NOTARY PUBLIC, STATE OF NEW YORK
GEORGE CANNING
No. 4738778
Qualified in New York County
Commission Expires 3/30/85

EXPRESS MAIL
NEXT DAY SERVICE

POST OFFICE TO ADDRESSEE

3

FROM Independent Democrats for LaRouche
2 Gerald R. Pearson, Treasurer
2 P.O. Box 849 Radio City Station
- New York, NY 10101

Customer Number, if any:

4 Charles Steele, General Counsel
Federal Election Commission
1825 K Street, NW
Washington, DC 20003

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Receiving
Office

P.O. Number

Date

North Atlantic Service



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To Whom, Date
& Address of Del.

Weight

Postage &
Fees

Lbs

1/10

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Date of
Delivery

Time of
Delivery

Initials of
Delivering Employee

Signature

DELIVERY WAS ATTEMPTED

Date

Time

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LAW OFFICES OF
MORRISON & FOERSTER
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1920 N STREET, N.W.
WASHINGTON, D. C. 20036
TELEPHONE (800) 887-1500
TELEX 90-4030

SAN FRANCISCO OFFICE
ONE MARKET PLAZA
SPRUE STREET TOWER
SAN FRANCISCO, CALIFORNIA 94105
TELEPHONE (415) 777-6000

LOS ANGELES OFFICE
333 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
TELEPHONE (213) 686-3800

DENVER OFFICE
200 COLUMBIA PLAZA
1670 BROADWAY
DENVER, COLORADO 80202
TELEPHONE (303) 831-2000

LONDON OFFICE
12 GROSVENOR PLACE
LONDON SW1X 7HN
ENGLAND
TELEPHONE 835-0881

HONG KONG OFFICE
ALEXANDRA HOUSE
CHATER ROAD
HONG KONG
TELEPHONE 2-215557

January 3, 1985

BY HAND

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1853
MUR 1854

Dear Mr. Steele:

On November 19, 1984, Independent Democrats for LaRouche ("IDL") and The LaRouche Campaign ("the Campaign") (collectively "the complainants") filed the above-referenced complaints with the Commission against the First Fidelity Bank N.A., New Jersey ("the Bank") and Robert R. Ferguson, the Bank's chairman and chief executive officer. Pursuant to 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.6, the Bank and Mr. Ferguson hereby respond to each complaint in turn and request that the Commission take no action on either complaint.

I. Introduction

For the reasons stated in detail below, neither complaint states a valid claim under the federal election laws or the Commission's regulations. Even if the facts as stated by each complaint were entirely accurate, the complaints fail to identify any acts by the Bank that constitute violations of the Federal Election Campaign Act or the Commission's rules. Each complaint is accordingly deficient on its face and should be dismissed.

The undisputed facts are the following: Complainants' accounts with the Bank were terminated on November 1, 1984. The Bank placed \$200,000 from those accounts into escrow to provide for anticipated "chargebacks" -- claims by credit card holders that funds deposited into complainants' accounts had been improperly charged on their credit cards. The complainants cancelled a half-hour television broadcast

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Charles N. Steele
January 3, 1985
Page 2

scheduled for November 4, 1984, allegedly because of the unavailability of the funds placed in escrow by the Bank.

These facts depict a dispute between the complainants and the Bank over the Bank's decision to terminate complainants' accounts and to place certain funds in escrow. That dispute is currently being litigated in the United States District Court for the District of New Jersey,^{1/} a proper forum for the resolution of such a dispute. Complainants are improperly attempting to transform such a dispute into a violation of the federal election laws. Their position, if accepted, would create a potential violation in every business dispute between a political committee and a merchant. The complaints have no merit and should be dismissed.

II. Allegations Against Robert Ferguson

IDL and the Campaign name Mr. Ferguson as a respondent to their complaints. The complaints themselves, however, contain no allegations of specific actions by Mr. Ferguson. Accordingly, they are plainly deficient with respect to Mr. Ferguson and cannot form the basis for Commission action.

III. IDL Allegations Against the Bank

The IDL complaint sets out four alleged violations that the Bank will address in turn.

A. First Alleged Violation

IDL first alleges a violation by the Bank on the basis of "an illegal corporate contribution to a federal campaign in the form of an Independent Expenditure against a particular candidate." IDL Complaint at 2. This "illegal corporate contribution" purportedly arose from the inability of the LaRouche campaign committees to pay for a prime time television broadcast. IDL alleges that the cost of the cancelled broadcast, \$236,484.00 (plus any penalties to CBS), constitutes the supposed unlawful independent expenditure.

^{1/} First Fidelity Bank and Robert Ferguson v. LaRouche Campaign, et. al., Civil Action No. 84-4849A consolidated with IDL and the LaRouche Campaign v. First Fidelity Bank, No. 84-4685.

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Charles N. Steele
January 3, 1985
Page 3

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This allegation has no basis in law or in the Commission's regulations. It is noteworthy that the complaint does not cite any statutory provision or section of the rules presumably violated. Under the Federal Election Campaign Act ("the Act"), "independent expenditures" above a certain level are subject to reporting and disclosure requirements. 2 U.S.C. § 434(c). The acts complained of by IDL, however, do not even arguably fall under the definition of "Independent Expenditure" set out in 2 U.S.C. § 431(17). Under that provision, an Independent Expenditure "means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate." It has been held that the words "expressly advocating" mean "exactly what they say," "requiring an unambiguous statement" urging the election or defeat of a clearly identified candidate. See FEC v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45, 53 (2nd Cir. 1980). In this case, there is not even a statement, much less an "unambiguous" one. The Bank's decision to terminate IDL's account and withhold certain funds cannot be construed as "expressly advocating the election or defeat of a clearly identified candidate," and the complaint neither makes such an allegation nor states facts that would give rise to the inference of express advocacy.

Similarly, the complaint does not state facts to support its allegation of an "illegal corporate contribution" separate and apart from the independent expenditure allegation. The term "contribution" means the donation of anything of value "for the purpose of influencing any election for federal office."^{2/} While the complaint states

^{2/} The full definition of "contribution" in 2 U.S.C. § 431(8) reads as follows:

The term "contribution" includes --

(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

Charles N. Steele
January 3, 1985
Page 4

that the Bank was aware "of the impact of its action on a federal political campaign," it neither alleges nor states any facts which even give rise to the inference that the Bank's purpose was to influence an election. To the contrary, the complaint states that the Bank "removed \$170,000.00 in Committee funds on deposit, to set up a fund for the payment of presumed future chargebacks by contributors to the Campaign." IDL Complaint at 1. As the complaint thus recognizes, the Bank's purpose was to protect itself against future chargebacks, which in fact have materialized beyond the full extent of the Bank's escrow holding.^{3/}

The Bank's action cannot constitute either a "contribution" or an "independent expenditure" as defined by the Act, and the first alleged violation is therefore without merit.

B. Second Alleged Violation

IDL contends that the Bank has violated the reporting requirements imposed by the Act and the Commission's regulations by refusing to provide sufficient information concerning chargebacks by contributors. According to IDL, it cannot report transactions to the Commission as a result, thus causing the Bank to violate 2 U.S.C. §§ 432(c), 434(b), and 11 CFR §§ 102.9(a), 104.3(a).

IDL misunderstands the reporting requirements imposed by these provisions. Other than independent expenditures (discussed above), those requirements apply only to treasurers of political committees. 2 U.S.C. § 434(a)(1), 11 C.F.R. § 104.1. They do not impose reporting obligations on entities which do business with political committees or candidates, including financial institutions. Neither the Bank nor any other business that furnishes services to a political committee is subject to any statutory or regulatory obligation to facilitate a political committee's satisfaction of its requirements under the Act.

^{3/} Between November 1 and December 16, 1984, chargebacks against complainants' accounts totalled \$216,172.00. See Cribbin Affidavit filed December 19, 1984 in First Fidelity Bank v. LaRouche, supra.

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Charles N. Steele
January 3, 1985
Page 5

Indeed, both Congress and this Commission anticipated reporting difficulties that could arise in the event of a dispute between a merchant and a political committee. The Act provides that "when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or Chapter 95 or Chapter 96 of Title 26." 2 U.S.C. § 432(i); 11 C.F.R. §§ 102.9(d), 104.7. IDL, therefore, is required only to exercise its best efforts to obtain the necessary information in order to comply with the obligations imposed by the Act.

Because (1) the Act imposes no reporting requirements upon an entity such as the Bank, and (2) IDL is required only to use its best efforts to obtain the information subject to the reporting requirements, the second alleged violation has no basis in law.

C. Third Alleged Violation

A political committee must establish a depository for campaign funds pursuant to 2 U.S.C. § 432h(1) and 11 C.F.R. § 103.2. It must officially designate such a depository and inform the Commission of such designation. IDL alleges that the Bank's termination of its accounts "without prior notice" violated these provisions by leaving IDL without a depository.

Like the reporting requirements, the Act's depository requirements do not apply to an entity such as the Bank. They apply explicitly to political committees. 2 U.S.C. § 432h(1), 11 C.F.R. § 103.2. The Bank is under no obligation, nor is any other financial institution, to tailor its business practices in order to ensure that a political committee has a depository in existence at every moment.

Moreover, the applicable statutory provisions and regulations do not indicate that a political committee commits a violation during the interim between its loss of a depository and its selection of a new one. Indeed, in the event of a dispute such as that which has arisen between IDL and the Bank, the reasonable interpretation is precisely the opposite, *i.e.*, that the political committee would be expected to have a reasonable amount of time to designate a new depository. IDL's allegation implies that the Commission's regulations compel the selection of only one depository, and if a problem arises with that depository the

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MORRISON & FOERSTER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Charles N. Steele
January 3, 1985
Page 6

political committee would necessarily be in violation of the rules. In fact, the Act and the Commission's regulations expressly contemplate the designation of "one or more" financial institutions "as its campaign depository or depositories." Id. (emphasis supplied). If the LaRouche committees had not previously established depositories other than the Bank, their appropriate and sensible response to the dispute was to designate a new depository, not to allege a frivolous violation against the Bank.

Neither the Act nor the Commission's regulations impose any obligations upon the Bank with respect to the maintenance of depositories by political committees. Accordingly, the third alleged violation is without merit.

D. Fourth Alleged Violation

The basis for IDL's fourth alleged violation is somewhat difficult to comprehend, and IDL does not identify any specific statutory sections or rules that have purportedly been violated. IDL contends that the Bank's actions have made it unable to meet the demands of creditors and to raise funds prior to its opening of a new account elsewhere, and have damaged IDL's goodwill. IDL then states that "the damage to the campaign's fundraising abilities thus constitutes a second illegal corporate contribution to a federal campaign, again in the form of actions directed against a particular candidate." IDL Complaint at 3.

This statement appears simply to restate IDL's first alleged violation concerning purported illegal campaign contributions. The discussion above of the statutory terms "contribution" and "independent expenditure" apply equally with respect to the fourth alleged violation. In its fourth allegation, IDL similarly fails to state facts suggesting that the Bank has made any "contribution" or "independent expenditure" as those terms are defined by the Act. Its allegations are simply conclusory and insufficient to make out the elements of a violation. See In Re Federal Election Campaign Act Litigation, 474 F. Supp. 1044, 1046 (D.D.C. 1979).

IDL cannot transform a common and fundamental banking practice into a violation of the federal election laws. No action undertaken by the Bank can remotely be perceived as intended to advance the election or defeat of any candidate. The Bank was simply acting in its business capacity as a financial institution. The LaRouche campaign committees have an appropriate forum -- the United States

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Charles N. Steele
January 3, 1985
Page 7

District Court -- to state any grievances against the Bank's business practices. Their attempt to use the Commission's compliance process by stretching the election laws and regulations far beyond their natural boundaries has no legal basis and must be dismissed.

IV. The LaRouche Campaign Allegations
Against the Bank

On the same day that IDL filed its complaint, the LaRouche Campaign filed one alleging virtually identical violations. It was based on the same set of facts that gave rise to the IDL complaint and accused the Bank of two violations very similar to two of the four IDL claims. Rather than reiterate the deficiencies in each alleged violation, the Bank summarizes below the grounds for dismissing each alleged violation and refers to the relevant, more detailed discussion in its preceding response to the IDL complaint.

A. First Alleged Violation

The Campaign alleges a violation of 2 U.S.C. §§ 432c, 434b and 11 C.F.R. §§ 102.9(a), 104.3(a), the sections that impose reporting requirements on political committees. Similar to the IDL assertions above (in its second alleged violation), the Campaign contends that the Bank's refusal to provide certain data has prevented it from satisfying the Commission's reporting requirements, resulting in a violation of these provisions.

As discussed in detail above, this alleged violation is without merit. The Campaign has not established the elements that form the basis for such a violation and has ignored two fundamental points: (1) that the Bank has no statutory or regulatory obligations with respect to the reporting requirements imposed on political committees; and (2) that Congress has provided for dispute situations such as the one in this case with the "best efforts" clause of the Act.

Accordingly, for the reasons stated herein and in response to IDL's second alleged violation above, this claim must be dismissed.

B. Second Alleged Violation

It is difficult to reply to this allegation, because it neither identifies a specific Bank action that is supposedly unlawful, nor does it cite statutory or regula-

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Charles N. Steele
January 3, 1985
Page 8

tory provisions that were supposedly violated. The Campaign claims that the Bank's termination of its account and its placing of certain funds in escrow have undercut the Campaign's ability to retire campaign debt, damaged its fundraising capabilities, and interfered with its normal functioning.

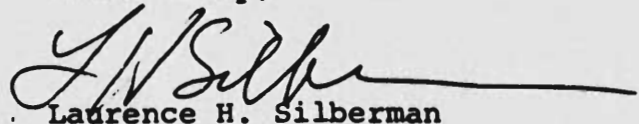
These facts do not form the basis of a valid complaint under the federal election laws or the regulations of this Commission. A financial institution, or any entity doing business with a political committee, is under no obligation to tailor or alter its practices in order to enhance the fundraising capability of a political committee. The Campaign cites no statutory or regulatory provisions in support of its second alleged violation because there simply are no provisions that have any applicability to the facts as stated by the Campaign.

Accordingly, for the reasons stated herein and in response to IDL's fourth alleged violation above, this claim must be dismissed.

V. Conclusion

There exists a dispute between the complainants and the Bank. It is a business dispute that is currently being litigated in federal court in New Jersey. If the complainants' theories had any merit, every business dispute between a political committee and a merchant or financial institution, which interferes in some way with a political campaign's normal functioning, could be elevated into a potential violation of federal election laws or regulations. The complaints as filed assert purported violations in a conclusory fashion and do not set out the elements of a violation under the Act or the Commission's rules. Accordingly, for the reasons set forth herein, the Bank respectfully requests that the Commission dismiss the complaints filed against the First Fidelity Bank and Mr. Ferguson by the LaRouche Campaign and Independent Democrats for LaRouche.

Yours truly,


Laurence H. Silberman

85040512297



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1984

Laurence H. Silberman, Esquire
Morrison & Foerster
1920 N Street, N.W.
Washington, D.C. 20036

Re: MURs 1853 and 1854

Dear Mr. Silberman:

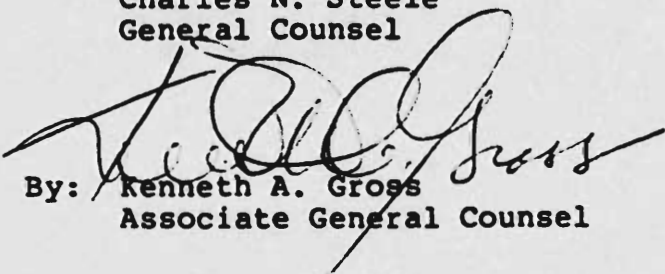
Your written request for an extension of time in which to respond to the complaints filed against your client, First Fidelity Bank NA of New Jersey, is hereby granted.

Please bear in mind that your response is now due January 3, 1985.

If you have any questions, please contact Charles W. Snyder, the attorney handling this matter at 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: 
Kenneth A. Gross
Associate General Counsel

85040512298

MUR

NAME OF COUNSEL: Laurence H. Silberman

ADDRESS: Morrison & Foerster

1920 N Street, N.W.

Washington, D.C. 20036

TELEPHONE: (202) 887-1566

RECEIVED
GCG#6006
81 DEC 24 AG: 25
1853/54

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

12-19-84
Date

James E. Miller
Signature

RESPONDENT'S NAME: First Fidelity Bank, N.A., New Jersey

ADDRESS: 550 Broad Street

Newark, New Jersey 07102

HOME PHONE:

BUSINESS PHONE: 201-565-3631

85040512299

SAN FRANCISCO OFFICE
ONE MARKET PLAZA
SPEAR STREET TOWER
SAN FRANCISCO, CALIFORNIA 94105
TELEPHONE (415) 777-6000

LOS ANGELES OFFICE
333 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
TELEPHONE (213) 636-3800

LAURENCE H. SILBERMAN
WASHINGTON, D.C.
DIRECT DIAL (202) 887-1566

LAW OFFICES OF
MORRISON & FOERSTER
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1920 N STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE (800) 887-1500
TELEX 90-4030

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LONDON OFFICE
12 GROSVENOR PLACE
LONDON SW1X 7HN
ENGLAND
TELEPHONE 235-0561

HONO HONO OFFICE
ALEXANDRA HOUSE
CHATER ROAD
HONO HONO
TELEPHONE 5-215557

December 18, 1984

BY MESSENGER

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
5th Floor
Washington, D.C. 20463

My firm has just yesterday been retained to represent First Fidelity Bank NA of New Jersey in connection with the complaints filed before the Commission November 16 and 19th.

I request a 15 day extension of the time required to answer the complaint in writing.

Very truly yours,


Laurence H. Silberman

LHS/dat

85040512300

12:00

ORRISON & FOERSTER

1920 N STREET, N. W.

WASHINGTON, D.C. 20036

8504051230

BY MESSENGER

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
5th Floor

RECEIVED AT THE FE
HAND DELIVER
84 DEC 18 P 2: 51



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM TO: THE COMMISSION
FROM: MARJORIE W. EMMONS/JODY C. RANSOM *JCR*
DATE: NOVEMBER 20, 1984
SUBJECT: MUR 1854 - Original Complaint

The attached was circulated for your information.

85040512302

**INDEPENDENT
DEMOCRATS
for
LaRouche**

P.O. Box 859, Radio City Station, New York, N.Y. 10101 (212) 247-8820

Debra Hanania-Freeman, Chairman

Gerard R. Freeman, Treasurer

59

November 16, 1984

Charles N. Steele, General Counsel
Federal Election Commission
1325 K Street, NW
Washington, DC 20463

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1854

4 NOV 16 1984

Mr. Steele:

This is to inform you of violations of the Federal Election Campaign Act and Regulations which require your establishing a Matter Under Review investigation. This complaint addresses four specific areas of violation, as specified below, and is filed against the following two respondents:

PI2: 57

First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

Robert R. Ferguson
Chairman and Chief Executive Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

First Fidelity Bank NA of New Jersey has been the sole depository for Independent Democrats for LaRouche since July 31, 1984. On November 2, 1984 the bank broke its contractual arrangements with the committee by terminating the committee's checking account and its ability to accept and deposit contributions by credit card, without proper notification. The bank also removed \$170,000 in committee funds on deposit, to set up a fund for the payment of presumed future chargebacks by contributors to the campaign. In addition to the \$170,000 so removed, the bank refused to process the committee's deposits of November 1, totalling \$112,650.00

The combined illegal removal of committee funds on deposit, and refusal to accept new deposits, forced the committee to violate its contract with the CBS Television network for a half-hour paid political broadcast to have been shown at 6:30 PM EST on November 5, 1984, the eve of the General Election in which Mr. LaRouche was a presidential candidate.

Since terminating the committee's accounts, the bank has also failed to provide the committee with routine debit memoranda identifying contributions being charged back to the committee by contributors, chargebacks which the committee

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knows to exist, and the payment of which was the purported reason for the sequestration of \$170,000 on November 1.

The bank's actions constituted and continue to constitute violations of the Federal Election Campaign Act as follows:

First Violation

In blocking committee access to its funds on deposit, the bank forced the cancellation of a contracted prime-time television broadcast by the campaign on election eve, an obviously critical time when all three major candidates were conducting such broadcasts. This cancellation represented a catastrophic disruption of and interference with the conduct of the campaign. It represents an illegal corporate contribution to a federal campaign in the form of an Independent Expenditure against a particular candidate in the amount of at least \$236,484.00, the cost of the cancelled CBS broadcast, and possibly more should damages or penalties have to be paid to CBS as a result of a possible breach of contract suit entered against the campaign. The committee had, moreover, notified the bank days in advance of its intended use of its funds, and the bank was therefore fully aware of the impact of its actions on a federal political campaign.

Second Violation

In holding up release of debit memoranda representing contributor chargebacks, the bank is preventing disclosure of the names, dates, and amounts of contributions to a federal campaign committee, in violation of 2 U.S.C. 432(c) and 434(b), and 11 C.F.R. 102.9(a) and 104.3(a). The committee cannot report transactions of which it can have no knowledge.

Third Violation

In terminating the committee's accounts without prior notice, the bank has placed the committee in the position of having no depository, a violation of 2 U.S.C. 432(h)(1) and 11 C.F.R. 103.2 and 103.3(a).

Fourth Violation

Without a depository, it has been impossible for the committee to raise funds during the time between the termination of its account at First Fidelity and its opening of a new account elsewhere. It has also been impossible to make disbursements against the \$170,000 removed by the bank from the committee's account. This has put the committee in a position of being unable to meet the demands of multiple creditors, subjecting it to possible legal collection actions.

This inability to raise funds for a critical period of time has also significantly damaged the committee's good relations with individual lenders who would otherwise have received payment on their loans, and would have remained supporters willing to provide future contributions based on the goodwill established by such past performance.

The ill-will so created, moreover, is not confined to the individual contributors affected. Complaints lodged by such individuals with banks, with the press and media, and with federal regulatory agencies such as the FEC, create a more generalized atmosphere of suspicion and hostility towards the campaign. That atmosphere, however unsubstantiated by fact, is in turn communicated to many other individuals and institutions by stories in the press and media, and by comments made to the public by employees of, among other institutions, the Public Records Office of the Federal Election Commission. There are many instances on record of each one of these consequences, some of which are or will shortly be the cause of further actions by the committee.

The damage to the campaign's fundraising capabilities thus constitutes a second illegal corporate contribution to a federal campaign, again in the form of actions directed against a particular candidate.

For these reasons, I therefore request that you establish an investigation pursuant to a Matter Under Review and notify complainant and respondents as prescribed by the Federal Election Campaign Act and Regulations.

I swear to the truth of these statements.

Gerald Rose
Gerald Rose
Treasurer

Sworn to before me this
16th day of November, 1984.

George Canine

NOTARY PUBLIC STATE OF NEW YORK
GEORGE CANINE
No 4788776
Qualified in New York County
Commission Expires 2/30/85

85040512305

Mel Klenetsky
National Campaign Director
Edward Spannaus
Treasurer

P.O. Box 2150, GPO, New York, N.Y. 10116, (212) 247-8820



November 16, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street NW
Washington, DC 20463

MUR
1853

14 NOV 19 1984
P12: 00

Mr. Steele:

This constitutes formal complaints against Fidelity Bank, NA of New Jersey ("Fidelity") and officers of the bank as identified below for violations of the Federal Election Campaign Act. Fidelity has been the principal depository for The LaRouche Campaign ("the committee"). On November 2, 1984 the bank unilaterally terminated the committee's business checking account and its merchant agreement for the deposit of credit card contributions. At the same time \$30,000 of committee funds were sequestered to an escrow account for the ostensible purpose of establishing a reserve against contributor chargebacks.

Since the termination of its contracts with The LaRouche Campaign, the bank has refused to provide the committee with any documentation pertaining to activity on the account. Such documentation includes identification of individuals whose contributions have been charged back (debited to the account), and the amounts of such chargebacks. At the committee's last meeting with the bank on November 5, 1984, such debit memoranda were shown to the committee but then withheld by the bank, and have not been provided since.

Since the committee cannot report the relevant contributor transactions without these bank memoranda (transactions which would be itemized as negative items on Schedule A for Lines 17a and 19b, and as adjusted year-to-date aggregates on both these schedules), the committee's Reports of Receipts and Expenditures could be materially in error starting with the November 20, 1984 report. This represents a violation of 2 U.S.C. 432(c) and 434(b), and 11 C.F.R. 102.9(a) and 104.3(a), respecting both the maintenance of records and the reporting of those transactions. As well, the committee is also unable to maintain proper documentation for these transactions.

As a second cause of complaint, the bank's termination of the committee's account without notification and its sequestration of \$30,000 in committee deposits has severely undercut the committee's ability to retire campaign debt, both from the loss of funds, and from the damage done to the committee's fundraising capabilities for lack of a merchant

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agreement enabling the raising of contributions by credit card. As is well known to the FEC Audit Division, this mode of fundraising has represented a significant share of the committee's overall fundraising program.

Such debt consists primarily of obligations to individual lenders, several of whom have already lodged complaints with the Federal Election Commission in respect of alleged arrears on their loans; and of which complaints, several have already resulted in Matters Under Review having been initiated by the Commission directed to The LaRouche Campaign. The bank's actions have severely jeopardized the committee's ability to retire these campaign debts in a timely fashion; and through the disruptions caused by the complaints of the lenders whose debts thus cannot be paid, these bank actions also create further interference with normal committee functioning.

I therefore request that your office open an investigation into the actions of the bank, for violations of the statutes and regulations identified above. This complaint is to be understood as filed against both of the following entities or individuals:

First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

Robert R. Ferguson
Chairman and Chief Executive Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

I will expect notification of your opening a Matter Under Review to be mailed to both us and the respondents within five days of receipt of this complaint.

I swear that the facts described herein are true and complete to the best of my knowledge.

Edward Spannaus

Edward Spannaus
Treasurer

Sworn to before me this
16th day of November, 1964.

George Canine

NOTARY PUBLIC STATE OF NEW YORK

GEORGE CANINE

NO 4738 T/E

Qualified in New York County

Commission Expires 3/2/85

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COMMENT SHEET

MUR # 1857/1854

Staff Member Charles W. Snyder

Date 12/7/84

Time of Transmittal _____

Expiration of 72-hour Comment Period: 12/12/84

Comments:

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Approve _____

Object _____

No comment _____

Initials _____

12 DAY REPORT

December 5, 1984

MUR #1853

#1854

Staff Charles W. Snyder

Date Assigned to Staff

11/19/84

Proposed Track Designation II

Source of MUR: MUR 1853 - The LaRouche Campaign,
Edward Spannaus, as treasurer
MUR 1854 - Independent Democrats for LaRouche,
Gerald Rose, as treasurer

Respondents' Names: First Fidelity Bank of New Jersey, and
Robert Ferguson, Chairman and CEO

Relevant Statutes: 2 U.S.C. §§ 432(c), 434(b), 432(h)(1), 441b;
11 C.F.R. §§ 102.9(a), 104.3(a), 103.2

Internal Reports Checked: MUR Index

STATEMENT OF THE CASE

Complainant Independent Democrats for LaRouche (hereinafter IDL) is the principal authorized campaign committee for Mr. Lyndon H. LaRouche's candidacy for president in the 1984 general election. In that sense, it is a successor organization to complainant The LaRouche Campaign (hereinafter TLC), which was the principal authorized campaign committee for Mr. LaRouche's drive for the 1984 Democratic Presidential nomination. Since the two committees are thus interrelated, and because both complaints raise identical allegations against identical Respondents, the two MUR's are herein considered in concert.

Both Committees maintained campaign depositories in the First Fidelity Bank of New Jersey (hereinafter the "Bank"). The complainants allege that the Bank and its Chairman and CEO (Robert Ferguson) violated the Federal Election Campaign Act

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(hereinafter the "Act") in that they did the following:

1. Terminated both committees' respective checking accounts;
2. Terminated without prior notice the committees' ability to accept and deposit contributions by credit card;
3. Removed the funds already deposited in the respective accounts (\$170,000 in the IDL account, \$30,000 in the TLC account) and placed them in escrow as a reserve against anticipated chargebacks by credit card contributors; and
4. Failed to provide IDL and TLC with account memoranda identifying individuals who charged back their credit card contributions to the committees.

IDL has further alleged that the Bank improperly refused to process \$112,650 in deposits to its account.

The complainants argue that the actions just outlined involve violations of the Act on four grounds. The first two of these legal arguments, as outlined below, are raised by both complainants; the third and fourth are raised by IDL alone:

1. The Bank's refusal to release debt memoranda concerning contributor chargebacks impedes the campaign committees' efforts to report information concerning contributions in violation of 2 U.S.C. §§ 432(c) and 434(b) and 11 C.F.R. §§ 102.9(a) and 104.3(a);
2. The Bank's action deprived the committees of a depository, making it impossible to meet the demands of creditors;

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3. The Bank's refusal to permit access to the funds on deposit forced IDL to cancel a planned election eve broadcast on CBS, thereby causing possible contractual liability to the network. IDL regards the Bank's action as equivalent to an illegal independent expenditure against a particular candidate by the Bank in the amount of \$236,484 (the cost of the broadcast);

4. The Bank has put IDL in the position of having no depository; every political committee is required under the Act to maintain such a depository. 2 U.S.C. § 432(h)(1). IDL concludes therefore that the Bank has violated that statute.

8 5 0 4 0 5 1 2 3 1 1
A review of the statutes upon which complainants rely makes plain that these laws impose duties on political committees and their treasurers, and on no other party. Thus, the Act obliges such committees to maintain depositories, to keep records of contributions and expenditures, and to report specified information based on those records to the Federal Election Commission. In no instance does the Act oblige any bank or other institution to cooperate with any political committee in complying with these requirements.

The complainants, to be sure, may have an action at law against the Bank for breach of contract or on some other grounds. But the FEC can not provide a proper forum for such a suit. While this agency in due course may wish to examine the records now in the possession of the Bank, it would be premature at this point to infer any violation of the Act from the Bank's reluctance to disclose the contents of those records.

There remains to consider one further possible violation of the Act. IDL itself asserts that it is without a depository. Were that assertion accurate, IDL (and possibly TLC as well) would be in violation of 2 U.S.C. § 432(h)(1). Subsequent to the filing of the present complaints, however, the Hon. Harry A. Margolis, Judge of the Superior Court of New Jersey, Chancery Division: Essex County, ordered the Bank to credit the accounts of TLC and IDL. Although Judge Margolis enjoined any withdrawals or drafts on these accounts without Court order, complainants would appear at least to have campaign depositories, even if they lack free access to the funds deposited therein. Consequently, there is no reason to believe any party has violated the Act in this case.

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION

RECEIVED AT THE FEC
GCC#5870
84 DEC 5 A8:58

CHAMBERS OF
HARRY A. MARGOLIS
JUDGE



326 HALL OF RECORDS
NEWARK, NEW JERSEY 07102
(201) 621-5124

November 30, 1984

Charles Snyder, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: First Fidelity Bank, N.A. et al v.
The La Rouche Campaign et als
Docket No. C-4791-84E

Dear Sir:

As per your recent request, enclosed is
a copy of the Order in the above matter.

Very truly yours,

Harry A. Margolis
HARRY A. MARGOLIS

HAM:dr
Enc.

85040512313

Filed
with the court
on 11/19/84
by HARRY A. MARBOLIS
HARRY A. MARBOLIS

HANNOCH, WEISMAN, STERN, BESSER, BERKOWITZ & KINNEY
A PROFESSIONAL CORPORATION
744 BROAD STREET
NEWARK, NEW JERSEY 07102
(201) 621-8800
ATTORNEYS FOR Plaintiff

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: ESSEX COUNTY
DOCKET NO.

FIRST FIDELITY BANK N.A.,
NEW JERSEY,

Plaintiffs,

-vs-

Civil Action

THE LAROCHE CAMPAIGN;
INDEPENDENT DEMOCRATS FOR
LAROCHE; CITIZENS FOR LAROCHE,
INC.; LYDON H. LAROCHE, INC.;
GERALD ROSE; DEBRA FREEMAN;
PATRICIA SALISBURY; MEL
KLENETSKY; RICHARD E. WELCH,

Defendants.

ORDER FOR RESTRAINTS
INCORPORATING SUMMONS

This matter having been presented to the court by

Hannoch, Weisman, Stern, Besser, Berkowitz & Kinney, P.A., attorneys
for plaintiff, in the presence of Joel J. Reinfeld, Esq., attorney
for defendants The LaRouche Campaign, Independent Democrats for
LaRouche and Gerald Rose, and the court having reviewed the
verified complaint and other pleadings and papers of record,

85040512314

on Nov. 16, 1984

H.7

and for good cause shown;

IT IS this 19th day of November, 1984

ORDERED NUNC PRO TUNC as of November 16, 1984,

as follows:

1. The defendants, and each of them, and all of their agents, representatives and employees, shall be and hereby are restrained and enjoined from publishing, distributing or disseminating in any manner or from any location the written materials annexed to this order as Exhibits A and B.

2. Plaintiff shall credit the accounts heretofore maintained in the names of defendants The LaRouche Campaign and Independent Democrats for LaRouche, the sums of \$30,000 and \$170,000 respectively. No withdrawals from said accounts shall be made, and no checks shall be drawn thereon, without further order of the court.

3. Plaintiff shall be and hereby is granted leave to take immediate depositions of any party or witness, upon seven days notice.

4. Any party may move to vacate or modify this order upon two days notice to adverse counsel.

5. A copy of this order, the verified complaint, and the other papers submitted by plaintiff shall be served upon each defendant or their counsel, by personal service within two days

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of the date hereof, and in addition, by certified mail, return receipt requested, postmarked within two (2) days of the date hereof. Pursuant to R.4:4-3, any employee or designee of plaintiff's counsel shall be authorized to effect such personal service.

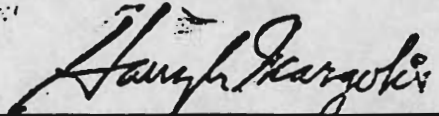
6. This order shall constitute the summons in this matter.

7. Each defendant shall serve a copy of its answer to the complaint upon plaintiff's attorneys, whose address appears above, and shall file an original and a copy of its answer with the Clerk of the Superior Court of New Jersey, CN 971, Trenton, New Jersey 08625, in accordance with the Rules of Court, within twenty (20) days after service of the complaint and this order, exclusive of the date of service; if any defendant fails to so file and serve, judgments by default may be rendered against it for the relief demanded in the complaint.

An individual who is unable to obtain an attorney may communicate with the New Jersey State Bar Association by calling toll free 800-792-8315 (within New Jersey) or 609-394-1101 (from out of state). You may also communicate with a Lawyer Referral Service or, if you cannot afford to pay an attorney,

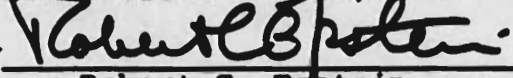
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call a Legal Service Office. The phone numbers for the county in which this action is pending are 201-488-0044. Legal Services Offices 201-487-2166. Persons who reside in New Jersey may also call their county Lawyer Referral Service of Legal Service Office.


HARRY A. MARGOLIS
J.S.C.

We hereby consent to the form of the foregoing "Order For Restraints Incorporating Summons"

HANNOCH, WEISMAN, STERN, BESSER, ..
BERKOWITZ & KINNEY, P.A.

By 
Robert C. Epstein
Attorneys for Plaintiff

Joel J. Reinfeld
Attorney for Defendants
The LaRouche Campaign,
Independent Democrats
for LaRouche and
Gerald Rose.

**INDEPENDENT
DEMOCRATS
for
LaRouche**

Major New Jersey Bank Caught In Grand Larceny!

Between the hours of 5 p.m. Thursday, Nov. 1 and 9 a.m. Friday, Nov. 2, the First National State Bank of New Jersey, of 550 Broad Street in Newark, removed \$170,000 from the account of Independent Democrats for LaRouche (IDL). It was not until Monday, Nov. 5 that the bank admitted that it had hand debited the account and had put the funds in an escrow account of its own choosing, to be used at the bank's discretion.

The only accurate description of these outrageous actions is grand larceny.

Look at the facts.

- 1) Thursday, Nov. 1 — \$170,000 balance reported in the IDL account.
- 2) 9 a.m. Friday, Nov. 2 — representatives of IDL come to bank to certify check for CBS to pay for scheduled Nov. 5 half-hour campaign television broadcast by Lyndon LaRouche.
- 3) 10 a.m. — IDL unofficially informed by Mr. Albright, the person in charge of the account, that the \$170,000 was not there and the account balance was \$10,000. He instructed IDL representatives to speak with the bank's chief counsel, Harold Mortimer.
- 4) 10:30 a.m. — IDL attorney called bank and was informed, "Mr. Mortimer is not here." When IDL attorney asked for someone in charge of the account, he was informed, "No one in charge of that account is here today."
- 5) 11:00 a.m. — Two representatives from IDL walk into Mr. Mortimer's office and find him sitting at the desk. He argued he had no knowledge of the matter of the IDL account.
- 6) 5 p.m. — IDL receives a telegram — 24 hours after the theft — to the effect that the bank has decided to "close the account."

It was not until 10:30 on Monday, Nov. 5, after a court order issued by Judge Marilyn Loftus, that the bank not only informed IDL that it had closed the account, but that \$170,000 had been seized and put into an escrow account to be used by the bank at its own discretion.

If someone on a bus had taken your wallet and pleaded before a judge that they were merely "hand-debiting" your account for safekeeping, most judges in this country would call it by its rightful name — robbery.

If a bank "hand-debits" \$170,000 from the political contributors of Lyndon LaRouche, and calls it "prudent banking practices," we believe that most judges will also call it by its proper name — robbery.

EXHIBIT A

17-00000-1278-1279-1280-1281-1282-1283-1284-1285-1286-1287-1288-1289-1290-1291-1292-1293-1294-1295-1296-1297-1298-1299-1300-1301-1302-1303-1304-1305-1306-1307-1308-1309-1310-1311-1312-1313-1314-1315-1316-1317-1318-1319-1320-1321-1322-1323-1324-1325-1326-1327-1328-1329-1330-1331-1332-1333-1334-1335-1336-1337-1338-1339-1340-1341-1342-1343-1344-1345-1346-1347-1348-1349-1350-1351-1352-1353-1354-1355-1356-1357-1358-1359-1360-1361-1362-1363-1364-1365-1366-1367-1368-1369-1370-1371-1372-1373-1374-1375-1376-1377-1378-1379-1380-1381-1382-1383-1384-1385-1386-1387-1388-1389-1390-1391-1392-1393-1394-1395-1396-1397-1398-1399-1400-1401-1402-1403-1404-1405-1406-1407-1408-1409-1410-1411-1412-1413-1414-1415-1416-1417-1418-1419-1420-1421-1422-1423-1424-1425-1426-1427-1428-1429-1430-1431-1432-1433-1434-1435-1436-1437-1438-1439-1440-1441-1442-1443-1444-1445-1446-1447-1448-1449-1450-1451-1452-1453-1454-1455-1456-1457-1458-1459-1460-1461-1462-1463-1464-1465-1466-1467-1468-1469-1470-1471-1472-1473-1474-1475-1476-1477-1478-1479-1480-1481-1482-1483-1484-1485-1486-1487-1488-1489-1490-1491-1492-1493-1494-1495-1496-1497-1498-1499-1500-1501-1502-1503-1504-1505-1506-1507-1508-1509-1510-1511-1512-1513-1514-1515-1516-1517-1518-1519-1520-1521-1522-1523-1524-1525-1526-1527-1528-1529-1530-1531-1532-1533-1534-1535-1536-1537-1538-1539-1540-1541-1542-1543-1544-1545-1546-1547-1548-1549-1550-1551-1552-1553-1554-1555-1556-1557-1558-1559-1560-1561-1562-1563-1564-1565-1566-1567-1568-1569-1570-1571-1572-1573-1574-1575-1576-1577-1578-1579-1580-1581-1582-1583-1584-1585-1586-1587-1588-1589-1590-1591-1592-1593-1594-1595-1596-1597-1598-1599-1600-1601-1602-1603-1604-1605-1606-1607-1608-1609-1610-1611-1612-1613-1614-1615-1616-1617-1618-1619-1620-1621-1622-1623-1624-1625-1626-1627-1628-1629-1630-1631-1632-1633-1634-1635-1636-1637-1638-1639-1640-1641-1642-1643-1644-1645-1646-1647-1648-1649-1650-1651-1652-1653-1654-1655-1656-1657-1658-1659-1660-1661-1662-1663-1664-1665-1666-1667-1668-1669-1670-1671-1672-1673-1674-1675-1676-1677-1678-1679-1680-1681-1682-1683-1684-1685-1686-1687-1688-1689-1690-1691-1692-1693-1694-1695-1696-1697-1698-1699-1700-1701-1702-1703-1704-1705-1706-1707-1708-1709-1710-1711-1712-1713-1714-1715-1716-1717-1718-1719-1720-1721-1722-1723-1724-1725-1726-1727-1728-1729-1730-1731-1732-1733-1734-1735-1736-1737-1738-1739-1740-1741-1742-1743-1744-1745-1746-1747-1748-1749-1750-1751-1752-1753-1754-1755-1756-1757-1758-1759-1760-1761-1762-1763-1764-1765-1766-1767-1768-1769-1770-1771-1772-1773-1774-1775-1776-1777-1778-1779-1780-1781-1782-1783-1784-1785-1786-1787-1788-1789-1790-1791-1792-1793-1794-1795-1796-1797-1798-1799-1800-1801-1802-1803-1804-1805-1806-1807-1808-1809-1810-1811-1812-1813-1814-1815-1816-1817-1818-1819-1820-1821-1822-1823-1824-1825-1826-1827-1828-1829-1830-1831-1832-1833-1834-1835-1836-1837-1838-1839-1840-1841-1842-1843-1844-1845-1846-1847-1848-1849-1850-1851-1852-1853-1854-1855-1856-1857-1858-1859-1860-1861-1862-1863-1864-1865-1866-1867-1868-1869-1870-1871-1872-1873-1874-1875-1876-1877-1878-1879-1880-1881-1882-1883-1884-1885-1886-1887-1888-1889-1890-1891-1892-1893-1894-1895-1896-1897-1898-1899-1900-1901-1902-1903-1904-1905-1906-1907-1908-1909-1910-1911-1912-1913-1914-1915-1916-1917-1918-1919-1920-1921-1922-1923-1924-1925-1926-1927-1928-1929-1930-1931-1932-1933-1934-1935-1936-1937-1938-1939-1940-1941-1942-1943-1944-1945-1946-1947-1948-1949-1950-1951-1952-1953-1954-1955-1956-1957-1958-1959-1960-1961-1962-1963-1964-1965-1966-1967-1968-1969-1970-1971-1972-1973-1974-1975-1976-1977-1978-1979-1980-1981-1982-1983-1984-1985-1986-1987-1988-1989-1990-1991-1992-1993-1994-1995-1996-1997-1998-1999-2000-2001-2002-2003-2004-2005-2006-2007-2008-2009-2010-2011-2012-2013-2014-2015-2016-2017-2018-2019-2020-2021-2022-2023-2024-2025-2026-2027-2028-2029-2030-2031-2032-2033-2034-2035-2036-2037-2038-2039-2040-2041-2042-2043-2044-2045-2046-2047-2048-2049-2050-2051-2052-2053-2054-2055-2056-2057-2058-2059-2060-2061-2062-2063-2064-2065-2066-2067-2068-2069-2070-2071-2072-2073-2074-2075-2076-2077-2078-2079-2080-2081-2082-2083-2084-2085-2086-2087-2088-2089-2090-2091-2092-2093-2094-

— 25 —

- 2) Court action will be initiated on the bank's violation of its contract with IDL.

- In addition, since the bank's theft of funds made it impossible for LaRouche to make his scheduled Nov. 5 CBS television broadcast, a lawsuit for damages against the bank and criminal action against its president, Bob Ferguson, will be initiated.

Beware of First National State Bank of New Jersey if you maintain an account there. IDL was a customer that brought the bank over \$150,000 in income, and they did this to us. What will they do to you if they need to?

0405142317

WANTED



ROBERT R. FERGUSON, Jr.

President and Chief Executive Officer
First National State Bank of New Jersey

Eyes: Blue

Hair: Gray

Age: 62

FOR GRAND LARCENY

Theft of \$170,000 in campaign funds
from Independent Democrats for LaRouche.

Between the hours of 5 p.m. Thursday, Nov. 1 and 9 a.m. Friday, Nov. 2, the First National State Bank of New Jersey, of 550 Broad Street in Newark, removed \$170,000 from the account of Independent Democrats for LaRouche. The money had been intended as payment for a nationwide CBS-TV broadcast by independent presidential candidate Lyndon H. LaRouche. The payment was due that day. It was not until Monday, Nov. 5 that the bank informed the campaign that it had closed the account and that the \$170,000 had been seized and put into an escrow account to be used by the bank at its own discretion.

The only accurate description of these outrageous actions is *grand larceny*.

For further information, call: (201) 429-4977

EXHIBIT B



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 29, 1984

Edward Spannaus
Treasurer
The LaRouche Campaign
P.O. Box 2150, GPO
New York, New York 10116

Dear Mr. Spannaus:

This letter is to acknowledge receipt of your complaint which we received on November 19, 1984, against First Fidelity Bank NA of New Jersey and Robert R. Ferguson, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Barbara A. Johnson at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By 
Kenneth A. Gross
Associate General Counsel

Enclosure

85040512321



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

November 29, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert R. Ferguson
Chairman and Chief Executive
Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, New Jersey 07192

Re: MUR 1853

Dear Mr. Ferguson:

This letter is to notify you that on November 19, 1984 the Federal Election Commission received a complaint which alleges that First Fidelity Bank NA of New Jersey and you, as chairman and chief executive officer may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1853. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against First Fidelity Bank NA of New Jersey and you, as chairman and chief executive officer in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

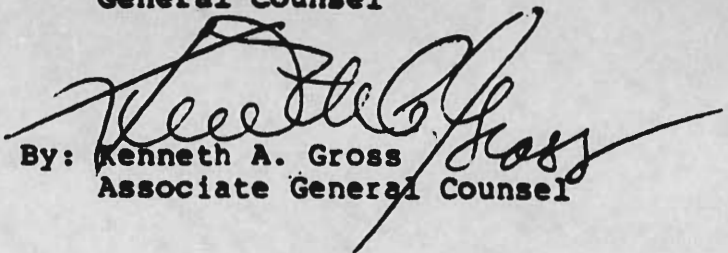
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Charles Snyder, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By: Kenneth A. Gross
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

85040512323

MUR # 1853

Date Received November 19, 1984

COMPLAINANT Edward Spannaus and The LaRouche Campaign

RESPONDENT First Fidelity Bank of New Jersey and

Robert Ferguson

TRACK ASSIGNED

FINAL REVIEW BY: A.O.C. G.C.

STAFF ASSIGNED

Charles Snyder

DATE

11/19/84

DUE DATE OF FIRST G.C. REPORT

today
today

Signature of G.C.

11/19/84

date

Please return to Docket after assignment.

Pls coordinate w/ Anne Weirich
(TJW)

85040512324

Mel Klenetsky
National Campaign Director
Edward Spannaus
Treasurer

P.O. Box 2150, GPO, New York, N.Y. 10116, (212) 247-8820

November 16, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street NW
Washington, DC 20463

Mr. Steele:

This constitutes formal complaints against Fidelity Bank NA of New Jersey ("Fidelity") and officers of the bank as identified below for violations of the Federal Election Campaign Act. Fidelity has been the principal depository for The LaRouche Campaign ("the committee"). On November 2, 1984 the bank unilaterally terminated the committee's business checking account and its merchant agreement for the deposit of credit card contributions. At the same time \$30,000 of committee funds were sequestered to an escrow account for the ostensible purpose of establishing a reserve against contributor chargebacks.

Since the termination of its contracts with The LaRouche Campaign, the bank has refused to provide the committee with any documentation pertaining to activity on the account. Such documentation includes identification of individuals whose contributions have been charged back (debited to the account), and the amounts of such chargebacks. At the committee's last meeting with the bank on November 5, 1984, such debit memoranda were shown to the committee but then withheld by the bank, and have not been provided since.

Since the committee cannot report the relevant contributor transactions without these bank memoranda (transactions which would be itemized as negative items on Schedule A for Lines 17a and 19b, and as adjusted year-to-date aggregates on both these schedules), the committee's Reports of Receipts and Expenditures could be materially in error starting with the November 20, 1984 report. This represents a violation of 2 U.S.C. 432(c) and 434(b), and 11 C.F.R. 102.9(a) and 104.3(a), respecting both the maintenance of records and the reporting of those transactions. As well, the committee is also unable to maintain proper documentation for these transactions.

As a second cause of complaint, the bank's termination of the committee's account without notification and its sequestration of \$30,000 in committee deposits has severely undercut the committee's ability to retire campaign debt, both from the loss of funds, and from the damage done to the committee's fundraising capabilities for lack of a merchant

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RECEIVED AT THE FEC



MUR
1853

34 NOV 19 12: 57 PM

GENERAL COUNSEL

855040512325

agreement enabling the raising of contributions by credit card. As is well known to the FEC Audit Division, this mode of fundraising has represented a significant share of the committee's overall fundraising program.

Such debt consists primarily of obligations to individual lenders, several of whom have already lodged complaints with the Federal Election Commission in respect of alleged arrears on their loans; and of which complaints, several have already resulted in Matters Under Review having been initiated by the Commission directed to The LaRouche Campaign. The bank's actions have severely jeopardized the committee's ability to retire these campaign debts in a timely fashion; and through the disruptions caused by the complaints of the lenders whose debts thus cannot be paid, these bank actions also create further interference with normal committee functioning.

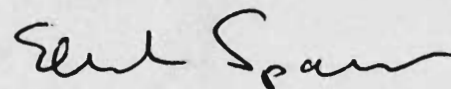
I therefore request that your office open an investigation into the actions of the bank, for violations of the statutes and regulations identified above. This complaint is to be understood as filed against both of the following entities or individuals:

First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

Robert R. Ferguson
Chairman and Chief Executive Officer
First Fidelity Bank NA of New Jersey
550 Broad Street
Newark, NJ 07192

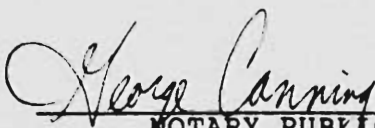
I will expect notification of your opening a Matter Under Review to be mailed to both us and the respondents within five days of receipt of this complaint.

I swear that the facts described herein are true and complete to the best of my knowledge.



Edward Spannaus
Treasurer

Sworn to before me this
16th day of November, 1984.



NOTARY PUBLIC, STATE OF NEW YORK

GEORGE CANNING

No. 4738718

Qualified in New York County

Commission Expires 3/30/85

85040512326



EXPRESS MAIL
NEXT DAY SERVICE



POST OFFICE TO ADDRESSEE

18055066

FROM:

[Faint handwritten address]

Customer Number, if any

[Redacted]

TO:

[Faint handwritten address]

TO REMOVE PEEL BACK HERE

84 NOV 19 12:00

EXPRESS MAIL SERVICE

LABEL 11F * SEPT/81 U.S.G.P.O. 1981-352-774

EXPRESS MAIL
NEXT DAY SERVICE

POST OFFICE TO ADDRESSEE

FROM: F. Spannaus, Treasurer
The La Rouché Campaign
Box 2470, G.P.O.
New York, NY 10116

Customer Number, if any

TO: Federal Election Commission
Attn: Charles Stenle
1325 K Street NW
Washington, DC 20543

ORIGIN:

Initials of
Receiving
Clerk

P.O. ZIP Code

Date

Return Receipt Service

☒

To Whom & Date Del

☐

To Whom, Date & Address of Del

Weight

Postage & Fees

Lbs

B 38955966

DESTINATION:

Date of Delivery

Delivery

Initials of Delivering Employee

DELIVERY WAS ATTEMPTED

Date

Time

Notice Left By

FORWARD OR RETURN TO POST OFFICE

EXPRESS MAIL SERVICE

LABEL 11F * SEP 74 U.S.G.P.O. 1981-352-774

85040512329



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 1854

Date Filmed 2/1/85 Camera No. --- 7

Cameraman A.S.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: Kent Cooper
FROM: Docket
SUBJECT: Additional material to be microfilmed

We have received the attached additional material to be added to the closed MUR file:

MUR 1854

85040552864

Date Recieved: _____

Date Returned: _____

Chief of Processing: _____



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 1854.

85040552865





FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 21, 1985

Harold E. Mortimer
Senior Vice President and General Counsel
First National State Bancorporation
550 Broad Street
Newark, New Jersey 07101

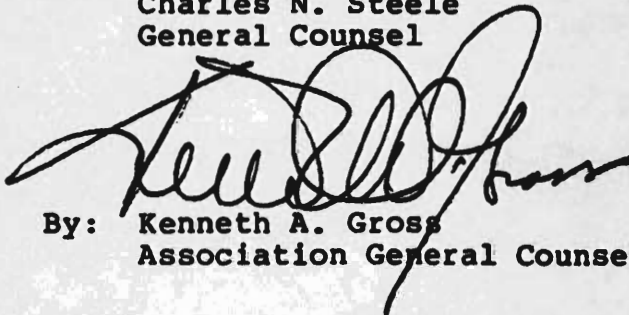
Re: MUR 1854
First Fidelity Bank, N.A.,
New Jersey

Dear Mr. Mortimer:

With reference to your letter of February 6, 1985, requesting copies of communications sent by this Office to Edward Spannaus and Gerald Rose, please be advised that these letters will not become part of the public record until February 28, 1985. At that time, you may obtain copies of the letters from the Public Disclosure Division of the Federal Election Commission or, if you prefer, renew your request to this Office and we will be glad to accommodate you.

Sincerely,

Charles N. Steele
General Counsel



By: Kenneth A. Gross
Association General Counsel

85040552866



First National State Bancorporation
550 Broad Street, Newark, New Jersey 07101
201 866-3631

RECEIVED AT THE FEC

FILED P 1:20

Harold E. Mortimer
Vice President and
General Counsel

February 6, 1985

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
Washington D.C. 20463

Re: MUR 1854
First Fidelity Bank, N.A., New Jersey

Dear Mr. Gross:

By your letter of January 29, 1985 to Robert R. Ferguson, Jr., you indicated the case was closed. Your memorandum also indicated that responses would be sent to Edward Spannaus and Gerald Rose. If it is possible, I would appreciate copies of those communications.

Thank you.

Sincerely,


Harold E. Mortimer
Senior V.P. & Gen. Counsel

85040552867



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 12, 1985

**Stephen J. Antal, Esquire
Assistant Vice President and
Counsel
First National State Bancorporation
550 Broad Street
Newark, New Jersey 07192**

**RE: MUR 1854
First Fidelity Bank,
N.A., New Jersey**

Dear Mr. Antal:

**In response to your letter of March 29, 1985, please
find enclosed copies of letters that this office sent to
Edward Spannaus and Gerald Rose.**

Sincerely,

**Charles N. Steele
General Counsel**

**BY: *Kenneth A. Gross*
Associate General Counsel**

**Enclosures
Letters**

85040552868



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 29, 1985

Gerald Rose
Independent Democrats for
LaRouche
P.O. Box 859 - Radio City Station
New York, New York 10101

Re: MUR 1854--

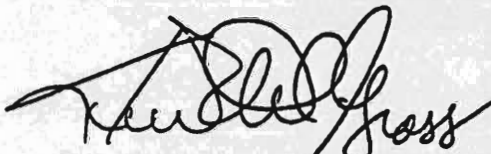
Dear Mr. Rose:

8 5 0 4 0 5 5 2 8 6 9
The Federal Election Commission has reviewed the allegations of your complaint dated November 16, 1984, and denominated MUR 1854. On January 24, 1985, the Commission voted to merge MUR 1853, a matter involving similar allegations, with MUR 1854. Also on that date, the Commission determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 29, 1985

Edward Spannaus
The LaRouche Campaign
P.O. Box 2150, GPO
New York, New York 10116

Re: MUR 1854

Dear Mr. Spannaus:

The Federal Election Commission has reviewed the allegations of your complaint dated November 16, 1984, and denominated MUR 1853. On January 24, 1985, the Commission voted to merge MUR 1853, a matter involving similar allegations, with MUR 1854. Also on that date, the Commission determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

85040552870



First
National
State

First National State Bank Corporation
550 Broad Street, Newark, New Jersey 07102
201 565-3400

85 APR 3

49:16

Stephen J. Antal
Assistant Vice President
and Counsel

March 29, 1985

Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1854
First Fidelity Bank, N.A., New Jersey

Dear Mr. Gross:

I refer to your letter of February 6, 1985 to Harold E. Mortimer concerning his request for copies of certain response letters sent to Edward Spannaus and Gerald Rose in connection with the referenced matter.

You indicated in your February 6 correspondence that said letters would become part of the public record after February 28, 1985. In connection therewith I renew our request for copies of the letters. Would you be good enough to send them to my attention at the above address.

Thank you.

Very truly yours,

Stephen J. Antal

SJA:sdf

85040552871

APR 3 10:40

RECEIVED
GENERAL COUNSEL



First National State Bancorporation
550 Broad Street, Newark, New Jersey 07102
201 565-3409

60# 2058
RECEIVED AT THE FEC

85 APR 3 40:46

Stephen J. Antal
Assistant Vice President
and Counsel

March 29, 1985

Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
15 APR 3 40:40

Re: MUR 1854
First Fidelity Bank, N.A., New Jersey

Dear Mr. Gross:

I refer to your letter of February 6, 1985 to Harold E. Mortimer concerning his request for copies of certain response letters sent to Edward Spannaus and Gerald Rose in connection with the referenced matter.

You indicated in your February 6 correspondence that said letters would become part of the public record after February 28, 1985. In connection therewith I renew our request for copies of the letters. Would you be good enough to send them to my attention at the above address.

Thank you.

Very truly yours,

Stephen J. Antal

SJA:sdf

8504052872

**First
National
State**

First National State Bancorporation
Newark, New Jersey 07192

ENV 523 (7-8)



U.S. POSTAGE

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Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

85 APR 3 9:16

HEFEG



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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

END OF ADDITIONAL MATERIAL FOR CLOSED MR 1854

85040552874





FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

9-21-87

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 1854

87040654066



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 12, 1986

Edward Spannaus
Treasurer
The LaRouche Campaign
P.O. Box 17720
Washington, D.C. 20041-0720

RE: MUR 1853/1854

Dear Mr. Spannaus:

In response to your letter of May 29, 1986, to Mr. Gross, please be advised that when the Commission closes a MUR on the grounds that it finds no reason to believe a violation has occurred, the complainant in the matter is sent a copy of the General Counsel's Report that formed a basis for the Commission's action. Attachments to the report are not included in this mailing.

Since the above-referenced matter is now on the public record, however, we are enclosing for your convenience a copy of the response you requested.

Sincerely,

Charles N. Steele
General Counsel

BY: Lawrence M. Noble
Deputy General Counsel

Enclosure

87040354067



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 12, 1986

Gerald Rose
Treasurer
Independent Democrats for LaRouche
P.O. Box 17707
Washington, D.C. 20041-0707

RE: MUR 1853/1854

Dear Mr. Rose:

In response to your letter of May 29, 1986, to Mr. Gross, please be advised that when the Commission closes a MUR on the grounds that it finds no reason to believe a violation has occurred, the complainant in the matter is sent a copy of the General Counsel's Report that formed a basis for the Commission's action. Attachments to the report are not included in this mailing.

Since the above-referenced matter is now on the public record, however, we are enclosing for your convenience a copy of the response you requested.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Lawrence M. Noble
Deputy General Counsel

Enclosure

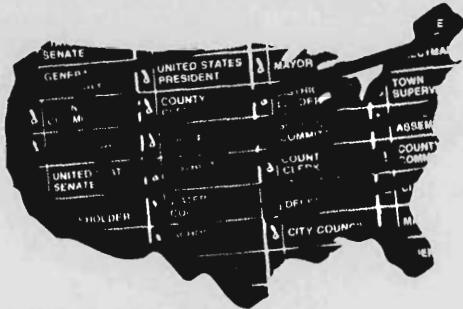
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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 1853/1854.

86040390402



P.O. Box 17720, Washington, D.C. 20041-0720

RECEIVED BY THE FEC
GOC#620
JUN 2 9:31

Mel Klenetsky
National Campaign Director
Edward Spannaus
Treasurer

May 29, 1986

Mr. Gross
Federal Election Commission
999 E Street
Washington, DC 20463

Dear Mr. Gross:

In reviewing my file on MUR 1854 which the Commission closed out by a vote on January 24, 1985, I noted that a response from the respondents was not attached to the General Counsel's Report. Such a response is itemized at the end of that report but was not forwarded to me.

Please, forward a copy of the respondents response immediately.

Thank you for your attention to this matter.

Sincerely,

Edward Spannaus
Treasurer

rds

36 JUN 2 11:05

85040570403

maus

Box 17720

Washington, DC 20041



USA
22



Mr. Gross
Federal Election Commission
999 E St., NW
Washington, DC 20463

1000
10:31

**INDEPENDENT
DEMOCRATS
for
LaRouche**

P.O. Box 17707,
Washington, D.C. 20041-0707

RECEIVED AT THE FEC
Debra Hanania-Freeman, Chairman

CC # 621
30 JUN 2 11:32
Gerald Rose, Treasurer

May 29, 1986

Mr. Gross
Federal Election Commission
999 E Street
Washington, DC 20463

Dear Mr. Gross:

In reviewing my file on MUR 1853/1854 which the Commission closed out by a vote on January 24, 1985, I noted that a response from the respondents was not attached to the General Counsel's Report. Such a response is itemized at the end of that report but was not forwarded to me.

Please, forward a copy of the respondents response immediately.

Thank you for your attention to this matter.

Sincerely,

Gerald Rose

Gerald Rose
Treasurer

rdS

30 JUN 2 11:05

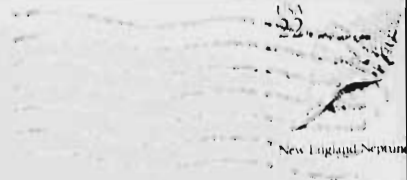
RECEIVED
GENERAL COUNSEL

360405

Rose

Box 17707

ton, DC 20041



Mr. Gross
Federal Election Commission
999 E St., NW
Washington, DC 20463

2002 08:32

FEDERAL ELECTION COMMISSION

Proposed Conciliation Agreements, Discussions of Conciliation, Withdrawn

GC Reports, Routing Slips, Index to File, Comments of Commissioner Reside,

Respondents letters regarding conciliation, 12 Day Pre Brief Report and ..

Comments

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

 (1) Classified Information

 (6) Personal privacy

✓ (2) Internal rules and practices

 (7) Investigatory files

✓ (3) Exempted by other statute

 (8) Banking Information

 (4) Trade secrets and commercial or financial information

 (9) Well Information (geographic or geophysical)

✓ (5) Internal Documents

Signed M. Brown

date 5/22/86

REC 9-21-77

86040570407